United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF & APPENDIX

77-7162

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MILLICENT LINDEN,
Plaintiff,
Appellant,

- v -

DAVID FOX and SAMUEL GRAFF,
Defendants,
Respondents.

76 Civ. 4403

Judge Kevin Duffy

NOTICE OF APPEAL

PLEASE RETURN TO RECORDS ROOM

UNITED STATES COURT OF APPEALS FILED MAY 4 1977 DANIEL FUSARO, CLERK SECOND CIRCUIT

MAY 4 1977

Dear Sirs:

Plaintiff-Appellant, asks this Court for Leave to Appeal from an order by United States District Court Judge Kevin Duffy that dismissed plaintiff's complaint against the above-titled defendants-respondents, who are lawyers. Said defendants deprived plaintiff of due process in the most obviously flagrant and gross violation of Constitutional mandates, such as submitting an alleged court order to strike plaintiff's action against a doctor for severe, life-threatening injury defendants represented that was never ruled on by the sitting motion court Judge, alleging an unverified bill of particulars that was reviewed as verified by the chief clerks of the courts and recorded in the county clerk's office as verified, first time and repeated twice over, etc. The SUPREME COURT OF THE STATE OF NEW YORK, and the CIVIL COURT OF THE CITY OF NEW YORK where the case was transferred, refused to take up the consideration of the violations cited and others in the course of procecuting the case against the doctor. The annexed exhbits contain exact, true copies of the record; of defendant-attroneys' illegalities in defending their client, and denying plaintiff's Constitutional rights to be heard in the right to trial.

Plaintiff has a Federal Cause of Action; the issues in the instant action have not been ruled on or heard elsewhere at any time in any court and cannot be said to have been unsuccessful elsewhere a s the court order by Judge Duffy reads.

Dated: April 5, 1977, New York N.Y. Respectufully, Millicnet Linde

Tp: EVANS, ORR, PACCELL, NORTON & LAFFAN
15 Park Row, New York N.Y.10038

500 East 74th St., New York, N.Y. 10021

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get out of hand, so much so, that it would eventually envelope also

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MILLICENT LINDEN,

Plaintiff,

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AFFIDAVIT

BRIEF ON APPEAL

STATE OF NEW YORK)
: s.s.:
COUNTY OF NEW YORK)

Plaintiff, Millicent Linden, appearing pro se, duly swears to the entire truth of the following statements in accordance with the original records' full documentations:

The facts plaintiff presents to this Court are clear-cut, fully documented in the original records in all courts, THE SUPREME COURT OF THE STATE OF NEW YORK, THE CIVIL COURT OF THE CITY OF NEW YOURK, and THE UNITED STATES DISTRICT COURT, and bear no burden of controversy on grounds such as privileges of discretion.

A Bill of Particulars is verified or it is not verified; when the County Clerk's records show b/o/p verified initially, originally on the submitted date, the irrefutable fact is that it is verified. A motion initiated by one party is either ruled on or it is not ruled on. When the sitting motion court judge writes that it was not ruled on, the irrefutable fact is that it was not ruled on, that, therefore, an alleged order ostensibly writing that a complaint is to be stricken from the calendar because a bill of particulars was not verified is not a matter of fact when the Court itself says it is not and that the action taken to strike the case off the calendar is not law and not fact

The train of such abuses is long, the usurpations pursuing the invariably the same object, to deny the injured party the right of redress, the CONSTITUTIONAL MANDATE of the right to be heard and the right to trial by jury.

The violations are directly under the CONSTITUTION, the laws of the land.

The issues to be presented before this Court and submitted in complaint brought before the UNITED STATES DISTRICT COURT for the SOUTHERN DISTRICT OF NEW YORK were never received or considered for judgement or ruling by any court prior to the institution of the action in the above-titled suit.

The defendants are practicing attorneys in the firm of: ISAACSON, ROBUSBELLI, FOX, FINE & BRECO, P.C. located at 277 Broadway, New York, New York 10007: DAVID FOX and SAMUEL GRAFF.

Plaintiff appeals to this Court from the order of UNITED STATES DISTRICT COURT JUSTICE KEVIN DUFFY. Said order reads, in excerpt, as follows:

> "The actions complained of were such as would be issues to be raised on appeal, a course which plaintiff has unseccessfully pursued in the state appellate system."

There is no record of any appeals in the State or City Courts; defendants have never submitted any replies or documents stating that plaintiff had any judgements from any court rendered on the issues stated in the instant action against defendant-attorneys.

All decisions rendered in the City and State courts were decisions ruling on the briefs submitted relating to plaintiff's suit against the defendant-doctor which the defendant-lawyers were representing in said action.

Copies, true and exact, of documents in the State and City courts, annexed herein among the exhibits, AND IN THE COURT RECORD FILE reveal that not only did those courts refuse to accept dispositions of plaintiff's request to to rule on the defendant-attorneys' gross abuse of the facts and out-and0out violations of plaintiff's rights, but they also upheld defendant-attorneys' distortions of what the county clerk's records contained.

Defendant-attorneys' mdtions alleging an unverified b/o/p was held as court mandate to strike plaintiff's case against defendant-doctor off the calendar despite the fact that plaintiff submitted documented proof that the b/0/p was duly verified, not only the first time, but repeated twice more; still the courts refused to acknwoeldge the facts on record and still the courts ordered plaintiff to verify the b/o/p each time it was newly verified.

EXHIBIT NOS. 1 THROUGH 6

Plaintiff's beiefs citing the documented fact that the sitting motion court judge did not rule on the alleged order to strike plaintiff's case off the calender brought no relief, the courts proceeding to mandate that pre-trial proceedings were not satisfied and thus not order the case back on the calendar.

Judge Seymour Schwartz of the Civil Court of the State of New York, in chambers in oral argument, told plaintiff, directly and forcefully, quoting verbatim; "GO TAKE UP SOME RELIGION, LAWYERS GOT TO LIVE", and while this is considered "hearsay", the record supports, upholds and unmistakeably points out Judge Schwartz overriding prejudice against pro se appearance when he uses the phrase "pro se" over and over in his court orders writtin in his handwriting and underlines them each time, and plainly directs plaintiff to verify the b/o/p, to respond to other demands by defense attorneys when the documented records submitted before him showed that each

EXHIBIT NOS. 7 THROUGH 13

precious time of those treatments, disturbing their effects and pro-

and every demand by defense had been more than fully satisfied in accordance with procedure; this fact was reviewed by the chief clerk of the Civil Court, Mr. Pheonix Ingraham, and the chief clerk of the Supreme Court, Executive Chief Clerk, Mr. Spector, and Chief clerk of the Calendar part, Mr. Cirkus, both of whom looked through plaintiff's papers before processing for the trial term, and noting that the papers would not be processed unless the bill of particulars had been verified. Correspondence to Mr. Spector is included with the annexed exhibits indicating the circumstances of the events, which also pertained to the special attitude towards pro se appearance. 14, 14a

Exhibit No. 14-1-a Letter to Mr. Spector EXECUTIVE CHIEF CLERK OF THE NEW YORK STATE SUPREME COURT

Civil Court Judge Bernard Weiss refused to reply to plaintiff's question as to how a court order signed by him to take plaintiff's case off the calendar when the sitting judge wrote that he had not ruled on the motion from which the alleged order to strike was submitted by defendant-attorneys in plaintiff's suit against the defendant docotr. Judge Weiss, chose instead, to all but shout from the bench as he moved towards the exit door to "Go get a lawyer".

Supreme Court Judge Postel, the sitting motion court judge before whom defense attorney's motion to strike the action from the calendar appeared, wrote EXHIBIT NOS. 15 THROUGH 21 that he did not rule on the motion, that the case was transferred by Judge Gellinoff before he had t ahcnce to do so, but in plaintiff's subsequent motions to vacate the order, defense had already moved to dismiss plaintiff's case before a judge in Civil Court who is a next door neighbor to Judge Schwartz and who told plaintiff whom he knew was in personal appearance and not a lawyer, that he would only listne to arguments based on law. That was Judge Walter Shackman, of the Civil Court. EXHIBIT 21 a

gain the attention of any court authority to rule on the documented

Plaintiff, in an effort to right these wrongs, brought a mana-must article 78 before the Appellate Division against Justices Seymour Schwartz and Bernard Weiss. EXHIBIT NO. 22

The defendant attorney for Judges Schwartz and Weiss from the District Attorney's office Lefkowitz' office argued the matter was non-juridictional in their cross motion, and the Appellate Division granted defendants' Cross motion and denied HEARING plaintiff's arguments within which were the issues to to be heard by denying plaintiff's appeal entirely. Therefore, the arguments were never heard at all, and the Appellate Divison refused to hear them at all, in granting the non-juridictional Cross Motion of defense attorney.

But these were efforts of plaintiff's appeal against the judges in Civil Court where plaintiff's action against the defendant-doctor was to take place in a trial by jury. They were not issues raised against defendant-attorneys in the instant action. Therefore, Judge Kevin's order stating that plaintiff's efforts in appealing to the Appellate Divison of the state courts were unsuccessful are not in accord with the facts on record in the files.

The Grievance Committe of the New York State Association of the Bar refused to hear plaintiff's complaint against defendant-attorneys. EXHIBIT NO. 23 THROUGH 25

Plaintiff has had no recorrse left but to take action in the Federal Court, the guardian of the CONSTITUTION, the laws of the land.

As the violations against the right to be heard, to trial by jury are incontestable, it must hold that there is more than sufficient ground for suit against defendant-attorneys. The copies of the record showing the evidence to warrant said suit were annexed to plaintiff's briefs in the court of Judge Kevin Duffy.

In his ordr dismissing plaintiff's complaint, Judge Duffy writes: "..complaint fails to reveal the existence of a federal cause of action.."

Plaintiff asks this Court if the individual is not within the mandates of the Constitution to be granted the right to redress wrongs, in physical injuries and/or injustices according to the law?

Plaintiff was injured by the defendant-doctor, and in a previous trial the defendant-doctor admitted openly on the witness stand under oath, providing expert tesitmony at the same time, that he did, in fact, inflict the injury complained of by plaintiff.

EXHIBIT NOS 26 + 27 + 28 & 29

The summons of the first trial (without jury) before Judge David Stadtmauer in Civil Court was for personal neglignece.

EXHIBIT 30

In the course of the trial, defendant-doctor admits to not following standard, prevailing practices, giving facts which plaintiff not have prior to the summons.

Some examples: the defendant-doctor states he diagnoses a rotated disc, states he suspects a fracture, admits that the practice world-wide is to order X-rays, that he does not order X-rays, that any suspected fracture site is not to be moved, yet describes an orthopedic test that calls for great movement and used only for inflammatory hip disease while acknowledging that plaintiff was physically active that any such inflmmation of the hips would preclude such active physical activity inherent in plaintiff's professional work, teaching dancing, doing independent research in the fundamental natural sciences of matter in motion, singing, lecturing, and writing, having several publications at large and copyrighted in the Library of Congress and all books in the New York Public Library.

Judge Stadtmauer ruled for the defendant-doctor despite the direc6 admissions from the witness stand as to his actions, as in one point, (page 6 of the court trial minutes transcripts) he even admits that he twisted plaintiff's knee without stabilizing the pelvis and cause excrutiating pain and instant inability to walk, with dire consequences that followed with attrition. EXHIBIT 31

Plaintiff lost all appeals in the Appellate Term, the Appellate Division and denied leave to appeal to the Court of Appeals in Albany New York,

EXHIBIT 32

Plaintiff, was, however, granted a transcript of the three-days trial of the court minutes by the Appellate Term in Forma Pauperis, plaintiff having been a free-lancer, having a hand-to-mouth existence as such with an original program entitled TENSION-in-REPOSE with no ffiliations of any kind to any organization and denying access to any established institutions either for the original progbam T-in-R or for its appliations in health, dance and voice.

EXHIBIT 33

The SUPREME COURT OF THE STATE OF NEW YORK did grant plaintiff an order to proceed with a second trial based on plaintiff's statement of the facts that with the trial transcripts, new evidence showed a different obligation and request to be heard on the full merits, allof which were part of the provisions in CPA 23,CPLR.

Plaintiff annexes a list of the exhibits and among them are the Supreme Court order for the second trial, a summary of the defendant-doctor's statements on the witness stand, and the order transferring plaintiff's case to the Civil Court. DEFENDANTS ARE IN FUL POSSESSION OF ALL. EXHIBIT NO. 34

The attorneys representing the doctor-defendant in the second suit did not represent him in the first. In one of their early briefs they state that the first suit lawyer and firm, WERNER,

KENNEDY & FRENCH, 19Hector Street, New York,N.Y. by Richard Purcell, Esq. did not represent the defendant-dcotro in the second suit because the complaint charges were not covered in their insurance policy. Defendant-lawyers in the instant action, David Foxz and Samuel Graff, of ISAACSON, ROSVUSTELLI, FOX FINE & GRECO,PC. represented the defendantdpctor in the second suit charging malicious misconduct with intent to maim. EXHIBITS 35 & 36

(These events arose out of the inital injury to plaintiff by a TEMPORDMANDIBULAR JOINT DUSFUNCTION specialist, Dr. Nathan A. Shore, whom plaintiff had consulted for a long-standing slight click in the jaw joint with the view of adding to the natural sciences researches in physical alignment of the whole body structure with the alignment of parts of the body in alignment of themselves, of which the slight click was a pertinent factor. The injury sustained TO PLAINTIFF by Dr. Shore caused cervical muscle spasms which the defendant-doctor NATHAN NOVICK had been treating for a period of a year, working on the neck muscles specifically to relieve the spasms on the right side while the rest of the body was still active working in regular routine of writing) Defendant-dcotor, Dr. Nathan Novick, undertook to severely misalign the pelvis, known universally to be the foundation of the whoel body, thereby disrupting the total equilibrium of the body, and like the foundation of a building, the body crumbples without a stable foundation.) The consequences left life AN UNSTABLE, PRECARIOUS hanging on a thread ever since.

When defendant-doctor Novick, under his own expert testimony revealed how he did inflict the severe and serious injury to plaintiff not from professional neglignence or personal neglignece, but from premeditated intent to maim, and with the further knowledge of a childhood illness requiring surgery which in turn left a discrepancy of bone weight in the femurs between left and right legs that nature coempensatef for in the growing years THERE developed an exceedingly acute

sensibility to internal balances, held to be known by defendant Dr. Novick, and that his testomony on the witness stand also revealed his admission that plaintiff had an objective assessment of subjective reactions in the body, and that plaintiff's professional work had brought radical improvement to one of his patients practicing plaintiff's T-in-R program, plaintiff's second suit before a jury could veritably warrant a decision for the plaintiff. EXHIBIT NO. 29

These FACTS BE AND WERE would well be known to THE experienced, practicing lawyers defendiag the doctor in such a suit before a jury who would be hearing the facts as they are on record, in his own words and in the medical and hospital reports: all of which consistently describe the extreme physical hardship plaintiff had, the severe muscle spasms throughout the entire spine, the inability to walk, sit or stand or even lie down beyond limited periods, the debility encroaching with time, the additional complication of the bone weight discrepancy that made restoring the dislodged pelvis next to an act of re-creating life itself, having to contend with unprecedented factors of the conditions of the circumstances.

Plaintiff was compelled to try a wide effort for effective treatments. The only one to have been effective was that of Dr. Edward Wedin, Lincoln Building, 60 EAST 42ND ST. Dr. Weding has been treating plaintiff for more than three years now. More treatments are required in order to establish some minimum modicum of self-sustaingin movement for internal equilbirum. As plaintiff had no indppendent material resources, no monies and no assets, Dr. Wedin, in his professional capacity and humane spirit, treated plaintiff without fees with the understanding that some settlement would eventually be made and plaintiff could meet the obligation of the fees for professional services rendered. In December, 1976, Dr. Wedin announced that he could no longer carry plaintiff for treatments

that he, too, is obliged to expenses, etc., and there was undeniable justification for his strained patience between plaintiff's desparate need for treatment and the courts' constant denial of plaintiff's rights to be heard on the merits and denying any and all possible relief to help the right to survive let alone the right to justice. He worked hard and long, for more than 3 years, and in the beginning, treated plaintiff every day on an emergency basis, and then 3 times weekly and then, recently twice weekly.

With the doctor's announcemnt that he would have to stop treaments, plaintiff moved in the couet of Judge Kevin Duffy, before whom the instnat action appeared, for a speedy trial due to the emergency that arose from the stopping of the life-sustaining treatments. The motion was for the returnable date of December 24, 1976.

Plaintiff submitted the medical and hospital records of the conditions that were being treated, CONTAINED IN THE COURT FILE RECORD, and upon having no reply to the motion on the emergency basis, plaintiff requested oral argument in correspondence, with notice to the other side, on December 29, 1976, intending to bring X-rays and other other documents as well as show the physical facts of the evidence. No reply FROM JUDGE DUFFY was ever received.

Plaintiff corresonded again on January 18, 1977 AND MARCH 29, 1977 to Judge Duffy. No reply was forthcoming to that letter.

Defense submitted Notice CROSS of Motion to Dismiss on Janyr 20,1977.

Defense sent Notice of Deposition on March 5, 1977 to take place at their offices at 15 Park Row. Plaintiff moved to have the deposition take place in the Federal Courthouse, defense attorney having previously called on his demand for adjournment in response to

emergency motion by plaintiff, saying that he had just returned from vacation, had "50 briefs on his desk", all in frantic tones and excess tensions that had overwhelming impact upon plaintiff in the debilitated state of the emergency, and recalled in the demand for deposition at his offices.

When plaintiff's condition took a turn for the worse without treatments following the Christman holidays, plaintiff returned to the doctor's office, practically sat on his doorstep, just to look at plaintiff, and in his profssional capacity and human spirit, relented and undertook to continue treatments. Living on such graces plaintiff could not undertake undue STRAINS to provide further burdens to the treating doctor by adding the excess tensions displayed by defense attorney under his own roof, and sought to have the deposition taken in neutral territory of the Federal Courthouse.

At the same time, plaintiff requested the court of Judge Duffy to limit the demands made by the defense to carry "all the records", defense knowing the voluminous files, over three folders, of the original records, and knowing that plaintiff was not physically able to carry even four pounds of groceries on special sale prices, and to limit the indefinite period of the deposition which defense demanded to take place until they, the defense attorneys' offices, were satisfied, which meant that they could carry on their demands for deposition indefintiely suiting only their own subjective and ulterior motives.

Plaintiff's returnable date for the motion was for March 17, 1977, the day before the scheduled date of the deposition submitted by defense only in time for plaintiff to make a motion for the required 11 days by mail service.

Plaintiff's motion is dated March 7th, 1977. Judge Duffy's order to dismiss is dated March 11, 1977 and received March 16, 1977,

FROM DEFENDANT'S JAN. 20, 1977 CROSS MOTION

BY PLAINTIFF

the day before plaintiff's motion for the returnable date of March 17, 1977. EXHIBITS 36, 37, & 38

Plaintiff had also submitted INTERROGATORIES for the defense, and defense raised objections to answering them at all even though they had submtited INTERROGATORIES to plaintiff at the time of plaintiff's motion for default judgement and requesting to answer NUNC PRO TUNC, which was granted them and denied plaintiff's default judgement of November 17, 1976. Plaintiff responded to each of the INTERROGATORIES submitted by defense to plaintiff.

In his order dismissing plaintiff's complaint, Judge Duffy's ENDORESEMENT read: "Since the complaint has been dismissed, the within motion is denied as moot" upon plaintiff's papers for the motion of the 17th and the INTERROGATORIES.by plaintiff to defense.

All of the foregoing exchanges were done on paper by mail. at no time was plaintiff ever given the opportunity to appear in person, to present orgal argument, to phsyically show thephsical evidence upholding the facts written in the briefs, even under emergency times.

Plaintiff notes that this Court grants a scheduling of time to be heard in oral argument on the issues in addition to the briefs written on appeal and the records on file. Plaintiff wishes to express appreciation for this fact, of being heard in person, allowed to all, including personal appearance of pro se representation, in addition to the written records and briefs.

In expressing appreciation in being heard in person and the reading of the written material, plaintiff makes no claim for any aptitude in those endeavors, having no training of any kind at any time, neither formal or informally in any field of study; the appreciation is extended in behalf of the opportunity to do so and

the obvious possibility of presenting those perspectives to offer as much of the full merits of the facts as may BE managed within plaintiff's limitations.

The only possession plaintiff has is that of the incontroverible facts on record and in the whole being as they are.

The experiences with the physical injury by the defendant-doctor and the injury of injustice BY the defendant-lawyers and the attendant court orders pertaining th it, have been unprecedented. Prior to the injury, plaintiff was privileged to have above-average vitality, earned her living dancing, singing, lecturing and writing research results as far as the hand-to-mouth existence can allow. This is a matter of record, as there have been Associated Press coverage of plaintiff's first publication done alone in Washington, D.C.entitled WHY YOU SHOULD NOT EXERCISE, sub-titled "Weightlessness for Earthlings" then TENSION-in-REPOSE, reprintdd as STRETCH FOR LIFE, and then a HOME SERIES COURSE, etc. all of which have had medical implications, used at New York Hospital, the Asthma Clinic in Boston, etc., but being an original program and as such unfamiliar, plaintiff was unable to obtain the requisite large investment to extend the program and the work beyond the solitary efforts. EXHIBITS NOS. 38 THROUGH 45

The reason plaintiff brings this fact to note is to establish sufficient professional warrant in attempting to describe the effects of injustice-violating the laws of the land-upon the physical body.

What comes to mind are the historical facts of the sacrifice of life in the struggle for freedom. This historical fact is in accord with the biological fact of freedom first. The great and unprecedented universalist, Leonardo da Vinci, wrote among his observations of nature in his NOTEBOOKS, that the chief gift of nature is liberty. Cosnidering da Vinci's observation of natural liberty and the liberty sought

so hard by human beings throughout human history, to the point of life itself, summed up so succinctly in the famous words, "Give me librty of give me death", from our own fight against despotic tyranny, that led to our Declaration of Independence and the CONSTITUTION, it may safely be said that plaintiff's experiences and reactions from the deliberate physical harm done by the defendant-doctor and the injustice done by his representing attorneys, being consistent with each other in deliberateness and premeditated intent of injury and injustice, respectively, adhere to the facts of biolgoical injury resulting from the injury of injustice, just as ~~injustice~~ PHYSICAL INJURY commits a biolgoical ~~injury~~ INJUSTICE and harm, as physical injury done deliberatley is in itself an injustice.

This is to say that plaintiff feels a sense of physical harm resulting from the act of injustice meted out by defendant-attorneys and their court-ordered sanctionings.

There is an unmistakeable impression, based on actual, documented facts in the records of these injustices, that the defendant-lowyers and those sitting courts upholding their illegalities, by their persistence in these practices over a shockingly extended period of time, actually expected plaintiff to present no further objections to these practices of flaunting the laws of the land, of regarding an individual without material assets or political or social influence as parctically a non-existent entity and deniable of the hard-fought for and won rights of liberty to be heard and to have the right of redress in the grave injustice of physical injury.

Such an attitude cannot be limited to the instance of one sole person; such an attitude is conducive to a malignancy in the land, whihh, left unchecked and unaccounted for, can only grow to over-whelming proportions to present a sickening growth that could easily

get out of hand, so much so, that it would eventually envelope also the very ones who are responsible for such growth, and that would inlcude the defendant-attorneys who indulged in such mammoth, obvious, far-from-subtle, gross illegalities, fraud, deception and duress as presenting an alleged court order to strike plaintiff's case from the calendar which was not ruled on by the sitting motion court judge, stating over and over that a bill of particulars is not verified when allthe clerks, from the chiefs themselves in the Civil and Supreme courts made special note that the b/o/p was verified or it could not have processed the papers for the tiral term, and a long list of other deceptions and excrutiating violations of the precious laws of the land, which include each and every state in the land.

The instant issues, therefore, from plaintiff's perspective, are far greater than plaintiff's cause alone. They involve the whole of efforts of the whole mankind. To what avail these historical sacrifices when lawyers and judges who cater to them perpetuate the tyrannies of the past through the power they hold in their positions of responsibility?

Neither can plaintiff not have the conviction that the branch of humanity that retains and maintains humanitarian attitudes and practices is not effective; they must exist and they must represent the counterpoise to the power-hungry tyrants who are deluded in their own concepts of self-interest, for it is not in true self-ineterest that they indulge in their dictatorial indulgences, for in the broader perspective, they deny themselves the true self-interest that lies in the concern for the next person to survive, for where one cannot survive, neither can another, including themselves. The right to survive belongs to everyone, it is a biolgoical fact of life to preserve it, and in their cruel acts of violation of those basic rights, defendant-attorneys with their bench participants, have indeed

sought to deny plaintfff the right to survive, let alone the right to be heard, for in their illegal acts of prolonging the procedures through a long list of unwarranted appearances in court, to travel to it, to sit when the muscles went into severe spasms and sitting became impossible and plaintiff had to wait in obscure corners to not be seen and ordered to sit down, the physical hardship of forcing walking when the body required lying down, of having to ride public vehicles when the jostling disturbed the treatments struggling to maintain the equilibrium, etc., etc. defendant-attorneys engaged in total disregard of plaintiff's life, having the medical and hospital records of thos facts and seeing the life-size actuation of them in the torment seen in court, yet persisted in continuing the same practices. Their acts leave nothing to the imagination, and the conclusions are self-evident.

Not only do defendant-lawyers jeopardize the well-being of the legal health of the nation, but they also jeopardize their own well-being in their own physical health, in denying plaintiff a legal resolution to the grievances incurred by the defendant-doctor.

While plaintiff's professional work is not widely disseminated through lack of material resources and non-affiliation with institutions, (no original PROGRAM is ever conceived from a "collective" group, but from the "collection" of individuals, with and through time), it is not a reflection upon its merits but upon the historical precdences that of circumstances and conditions and time to take hold. Among the consistent and proven facts is that of plaintiff's program relieving strains in the body, a profound medical significance of great benefits, in general, and, in time, to be seen, in specifics. In denying plaintiff the right to resolve the issues legally, without fraud and gross violation of misrepresnetations, defendant-attorneys deny, at the same time, in denying plaintiff's efforts to engage in presenting

the Tension-in-Repose program, which could only one day have an effect upon their own well-being, for they, too, are human beings, and, as such, subject to the laws of nature, and the strains of life, and the effect of those strains upon their own bodies. They are in need of T-in-R like anyone else, and T-in-R is universally practiced by all creatures outside of the human adult, creatures who live in harmonious accord with the laws of nature at large, such as babies and animals. It is because the human adult flaunts the laws of nature, indulging in self-determined subjective concepts of "nature" and disavowing the importance and potent of the elementary, fundamental laws that are eternal, that they invite their own self-destruction, either in flaunting the laws of the land or the laws of the body.

And when defendant-attorneys offer the argument that they were protecting their client, the defendant-doctor, the inevitable question arises, as to how far can anyone go to protect a client, and a lawyer do so at the expense and sacrifice of the life of the plaintiff and plaintiff's own legal rights? The anser does not call for expertise in the field of law, when the common sense, universally known fact is that every life has the right to sruvive and the right to the law to be equally dispensed. Let the malicious doctor who so deliberately deprived plaintiff of the vital, ebullient health and vitality inherent within plaintiff's life before his premeditated act of injury once again be heard to defend himself against his own words so openly stated under oath in court on the witness stand. It is his right to explain his own words as it is plaintiff's right to ask for it and to present the same facts from plaintiff's rights.

The repercussions of injustice may well be more far reaching than can be estimated by anyone, including defendant-attorneys in the context cited above by keeping plaintiff from due process and demanding unwarranted hardships in court that usurped treatments and

precious time of those treatments, disturbing their effectiveness and prolonging undue effort in the need of objecting to their illegal practices which only deterred plaintiff's efforts from plaintiff's professional work however minuscule and remote by comparison to the work done before the injury, at least in trying to get others to keep interest in it active. Even the defendant-doctor, who acknowledged on the witness stand and in writing (on record) the professional worth of plaintiff's work, seeing it in effect upon his own patient who was a pupil of T-in-R, could not hope to benefit from it who he must surely also include himself among human beings in need of natural forces of harmony, with or without pathological conidtions, for life itself is that of movement and movement is always requiring of the forces of balance that work in harmony.at all times in all things, in all degrees of equilibrium.

Can it not be safely assumed that the main purpose of our fight for freedom, our Declaration of Independence, our CONSTITUTION, and all ensuing legislation was to protect the sanctity of life, the life of the individual, for when one life is left to the wiles of the tyrants unabated, no life is safe or protected by law, that injustice meted out to one individual is harming others? Who can tell when the injustice done to one is not that injustice which thwarts the welfare of many others if not all? If the sanctity of life is to be protected, then it must be the subject of life itself, anyone's life, against abuse of power, anywhere, even in the courts.

There's not even an iota of doubt of the gross violations enacted by defendant-attorneys. There are no loopholes or technicalities that can be routed in directions of interpretations. A bill of partiuclars had been initially verified and repeated on demand; a motion by defendant-attorneys to strike plaintiff's case against the defendant-dcotor was either ruled on or it was not, and the sitting judge writes that it was not ruled on, but plaintiff could not

gain the attention of any court authority to rule on the documented, facts, could not even get anyone to hear them out. There had been such a preponderance of avoidance of those documented facts, it looked more like plaintiff was promoting the bubonic plague rather than a warranted justification to look for and to expect wrsongs to be righted which are written in the laws of the land.

Surely, in view of the total lack of reception in the City and State courts, the issues have become a Federal cause of action, unless the legal irresponsibility fo the City and State courts take precedence over the mandates of the Constitution. Plaintiff does not indulge in any such conviction as autonomy of local laws violated take precedence over the laws of the whole nation for which so many human lives have been sacrificed to attain. And were there not also humanitarian purposes included within the laws set in the Constitution? Plaintiff has heard public reports of rulings made on the basis of humanitarianism, therefore, they must be included in the statutes.

Judge Duffy's order dismissing plaintiff's complaint bases his ruling on theis being no "Federal cause of action"; the record documents each and every claim made in the foregoing and more, and the annexed exhibits, exact true copies from the original records in the City and State Courts, each document proving the whoelsale indulgence by defendant-attorney in depriving plaintiff of fundamental Constitutional rights, of plaintiff's compliances with all demands/and by defense court orders yet openly disavowed by all, lawyers and sitting judges.

Judge Duffy never acknwoeldged plaintiff's pleadings, either in motion made on an emergency set of conditions, where life was threatened, nor in personal correspondence, for more than 3 months, and then only just before the day of another motion by plaintiff dismissing the action upon a 2-month-old ~~motion~~ cross motion by defense to dismiss, ruling plaintiff's motion as "moot", the case being dismissed

Plaintiff can only hope that this Court will bear with the recurring citing of facts, to understand that these facts rankle as plaintiff was at the time of the emergency conditions under a desparate struggle for life itself and that desparate struggle was so entirely ignored by the court of Judge Duffy. The idea of the ideal of humanitarianism in the laws of the land were also assaulted along with the right to make efforts to survive. It became incomprehensible to plaintiff that the pattern of callousness to the sufferings of a pro se plaintiff was once again being encountered.

Under these circumstances, the reflections upon the events began to include even the survival of the mandates of the Constitution, as well as plaintiff's own life. Had the treating doctor's own sense of humanism not prevailed and, upon seeing the threat to plaintiff's life with his professional observation when plaintiff practically sat on his life-saving doorstep to his office, plaintiff could not at this moment even be standing at the typewriter at intervals of lying down to present this appeal to this Court.

Certainly the medical and hospital records were there in the records and in plaintiff's briefs and cited in plaintiff letters to JUdge Duffy. If, in fact, there were any concern extended to the defendant-attorneys who are members of the Bar Association, over the facts of plaintiff's circumstances, legal and medical, then plaintiff expands the concern to the perspective that the quest for justice is not one of any field of professional skill, such as that of law, but of the conditions of humanity at large, of the facts of human beings in any profession, which formed the basis of the Declaration of Independence that led to the Constitution, wherein it is written:

> "..and accordingly as Experience has hath shown that Mankind are more disposed to suffer, while Evils are sufferable than to right themselves by abolishing the Forms on which they are accostomed. .."

Plaintiff is imbued sufficiently with humanness and sensibilities to object to the unwarranted incrsion upon legal and humane rights to object strenuously to the gross violations encountered in proclaiming the right to redress a grievance of severe, physical injury and severe legal injustice, meted out by defendant-attorneys in the course of court procedures. Injustice is a condition of "Mankind" as the Declaration of Independence noted from "experience",not limited to the fields of treating doctors and representatives of the law, and plaintiff presents the request to right the wroggs on the basis of human experience at large, not on the basis of a particular profession.

To accept the act of physical injury, to accept the act of grievance legal injustice, is to become an accessory to those acts, to become part of them, to take on the characteristics that formed their enactment in the first place. For plaintiff whose whole being is imbued with the integrity of the forces in nature at large that promote internal, complementary harmony, it just could not be possible to submit to these undeniable facts of physical and legal malicious, premeditated intent to maim and to harm physical and legal liberty.

Plaintiff cannot and does not presume to argue law before any Court, but plaintiff does appeal to the protectors of the law to apply it judiciously in accordance with the facts and upon the merits of the facts, and this has never been done, neither in plaintiff's action against the defendant-doctor who openly states his malicious ientent to maim and in plaintiff's action against the defendant-attorneys representing said doctor who also openly denied plaintiff due process in accordance wo the mandates of the Constitution, to deny plaintiff's rights to be heard on the facts, to be ruled on the facts on record on their full merit through the cooperating benches sitting on their motions who also denied the facts in the original records however much plaintiff protested and appealed in the City and State Courts.

Plaintiff is but a sole, unaffiliated individual, a resident of of life in this Nation. Perhaps the temptation among unethical lawyers, their willing partners in the courts, themutual "understanding among them, the unseen "nod" or "wink", etc., that protect their unethical practices, to vent their powers on the those without any position or means for power, monetarily, socially, politically, etc., is too much tom resist for their devious intents. If the doctrine of "mens rea" holds, the "things of the mind", the unmistakeable intention to do legal harm being there initially, defendant-attorneys practiced "mens rea".

Facts are facts; in plaintiff's suit against the defendant-doctor the facts accumulated to a mountain of condemnation.

Power is power; power at large; power is real; there is power in the court system. Being real, it is not just a moral failing. Evidently, proper behavior is not a substitute for it, as plaintiff's adherence to the demands of the court system and procedures and full compliances with defendant's demands and court mandates bore no counter-weight to the power in the courts from the bench and from the skilled, experienced practicing defense lawyers.

BUT, there is simple, noble conviction, perhaps "theory" in some perspectives, that is an unarguable one: NO POWER SHOULD BE UNACCOUNTABLE. Even preidents are required to obey at least the most FUNDAMENTAL LAWS OF THE LAND. Can those practicing the law be expected to be immune from the laws of the land? The answer is obvious

All responsible persons are held to be responsible for their acts, and they must be held accountable for them. To knowingly grant license to"get away" sith breaking the law is next to anarchy.

While some lawyers may argue that the "law isn't clear" in many instances, there is no such argument that can be made in the instant

issues; a most cursory glance or the most extensive analysis of the documented evidence provides full substance to the claims made by plaintiff, supported by the county clerk's records and all files.

When the rules of the courts are used against the public at large, are to be used against those who dispense those rules, then those who HAVE ruled UNJUSTLY react in unison - all against the sole individual.

Plaintiff, therefore, relies upon this, the highest Court in the Second Circuit, to defend the ideals of the mandates and ideas of the Constitution in the person of one small indiivdual.

" The High Court held that even though there was no law specifically permitting citizens to sue officials," wrote the report in the New York Tiems, March 27, 1977, "such suits could be brought DIRECTLY UNDER THE CONSTITUTION IF THERE WAS A LEGITIMATE ISSUE/OF VIOLATION OF CONSTITUTIONAL RIGHTS."

While defendants in the instant action are lawyers, not officials of government, the issues are "a legitimate issue of violation of Constitutional rights,"and plaintiff's suit against the defendant-lawyers can be brought directly under the CONSTITUTION, as well as an unending list of of laws readily recognized by these versed in them. Plaintiff has been denied due process; defendants' falsified statements striking plaintiff's case from the calendar AND THEY were upheld by the SITTING courts.

WHEREFORE, plaintiff respectfully requests this Court to re-instate plaintiff's suit against the defendants in accordancev with the facts in all original records.

RESPECTFULLY SUBMITTED,

Millicent Linden

Dated: April 5, 1977
New York, New York

Millicent Linden
500 East 74th Street
New York, N.Y. 10021
BU.8-9453

To: EVANS, ORR, PACELLI, NORTON & LAFFAN
15 Park Row, New York, N.Y. 10038

SWORN TO BEFORE ME THIS 5th DAY OF April, 1977

VINCENT AMATO
NOTARY PUBLIC, State of New York
No. 2
Qualified in Bronx County
Commission Expires March 30, 1979

Vincent Amato

U.S. DISTRICT COURT
FILED
MAR 11 1977
S.D. OF N.Y.

ENDORSEMENT
Linden v. Fox and Graff 76 Civ 4403

Defendants have moved to dismiss the complaint for failure to state a claim upon which relief can be granted and for lack of subject matter jurisdiction.

Defendants are the attorneys who represented a physician who plaintiff unsuccessfully sued in state court. Plaintiff brings this action, apparently pursuant to 42 U.S.C. §1983, claiming that the actions of defendants in representing her adversary in state court violated her constitutional rights and caused her "secere distress and anguish." The actions complained of were such as would be readily apparent on the face of the state court record and would be issues to be raised on appeal, a course which plaintiff has unsuccessfully pursued in the state appellate system.

A most generous reading of the complaint fails to reveal the existence of a federal cause of action; and since the complaint states that all parties are residents of New York, diversity of citizenship is lacking.

Accordingly, defendants' motion to dismiss the complaint is granted.

IT IS SO ORDERED.

U.S.D.J.

New York, New York
March 11, 1977

MICROFILM
MAR 1 1977

Sir :

Please take notice that the within is a

Index No. 76 CIV. 4403

Year

RECEIVED MARCH 16, 1977
PLAINTIFF'S RETURNABLE MOTION DATE: MARCH 17, 1977, SET MARCH 7, 1977
DEFENDANTS CROSS MOTION TO DISMISS, JANUARY 20, 1977

OCTOBER 10, 1975

B 435—Notice of Papers to be Filed in Support of Application for Preference, 1st and 2nd Depts.

SUPREME COURT NEW YORK COUNTY, N.Y. COURT CASE No. 41674/75

CALENDAR No.

MILLICENT LINDEN,

Plaintiff(s)

against

NATHAN NOVICK,

Defendant(s)

Notice of Papers to be Filed in Support of Application for Preference

Sir:—PLEASE TAKE NOTICE, that pursuant to the Special Rule regulating the granting of preferences in trial of actions to recover damages for personal injuries resulting in permanent or protracted disability or to recover damages for causing death, copies of the following will be filed with the Trial Term Calendar clerk, in support of the application for a preference:

1-4 B/P
5-5A
No medical
6-7C

summons	July 28, 1975
verified complaint	July 28, 1975
answer(s)	August 18, 1975
verified bill of particulars	August 24, 1975

reports, previously served by the parties, as required by the provisions of the special rule regulating physical examinations and exchange of medical information.

Professional premeditated malpractice, wilfull & malicious, with intent to maim.

COMPLAINT IN SECOND SUIT

A copy of each of the following papers, not heretofore delivered, is hereto attached

Counsel's certificate of compliance with rules

Dated, October 10, 1975

Yours, etc., Millicent Linden

Millicent Linden
Plaintiff, Pro Se
Attorney(s) for
Office and Post Office Address
500 East 74th Street
New York, New York 10021

To ISAACSON, ROBUSTELLI, FOX, FINE & GRECO, P.C.
Attorney(s) for Defendant
277 Broadway
New York, New York 10007

1

23

MOTION: OCT. 24, 1975; RULING DEC. 10, 1975;

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY
COUNTY CLERK RECORD VERIFIED B/O/P AUG. 24, 1975
at the Courthouse thereof, 60 Centre Street, New York, New York, 10007.

Present: Hon. GEORGE STARKE Justice.

2/2

Millicent Linden

— against —

Matthan Novick

MINUTE SPECIAL TERM PART I N.Y.L.J. JOURNAL
DEC 11 1975
SUBMITTED CTY. CLK. RECEIVED FROM JUSTICE DISPN BOOK

The following papers numbered 1 to 16 read on this motion,

	PAPERS NUMBERED
No. 102 on Calendar of OCT 24 1975	1-9
Notice of Motion - Order to Show Cause - and Affidavits Annexed	10-16
Answering Affidavit	16
Replying Affidavit	
Affidavit	
Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers See #102 This date	

Upon the foregoing papers this Motions numbered 102 and 103 of the calendar of October 24, 1975, are herein consolidated for disposition as follows: ¶ The defendant's motion for an order compelling a further bill of particular in an action for malpractice by the pro-se plaintiff is granted. The plaintiff shall supply further particulars with respect to item 3 of the demand, to which no particulars were supplied. The plaintiff is also directed to verify the particulars previously supplied (see CPLR § 3020[a]). In addition, copies of the income tax returns requested in the Notice for Discovery and Inspection shall be produced or, in lieu thereof, a verified statement that none were filed and do not exist. ¶ The plaintiff shall comply with the requirements of this order within 15 days of service of a copy hereof, with notice of entry.

FILED
DEC 11 1975

J.S.C.

Dated DEC 10 1975

Briefs: Plaintiff's Defendant's Petitioner's Respondent's Relator's

Briefs

County Clerk's No. 41674, 1975

Spec I Liber 1-100 Line 6, 1975

ALL DEMANDS SATISFIED ENTIRELY AUG 24, & SEPT 29 1975 IN WITH COUNTY CLERK STAMP AND RECORDS

35

(2)

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY

at the Courthouse thereof, 60 Centre Street, New York, New York, 10007.

Present: Hon. GEORGE STARKE

Justice.

Millicent Linden

— against —

Mathan Novick

DEC 11 1975

TO CTY. CLK. | PRESIDING FIRST JUSTICE | SEC'D DOCK

The following papers numbered 1 to ..... read on this motion, SUBMITTED

No. 102 on Calendar of 1975

	PAPERS NUMBERED
Notice of Motion - Order to Show Cause - and Affidavits Annexed	1-3
Answering Affidavit	
Replying Affidavit	
..... Affidavit	
..... Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

See # 103 This Date

Upon the foregoing papers this motion is disposed of in accordance decision in companion motion decided simultaneously herewith.

Dated ..... J.S.C.

Briefs: Plaintiff's ..... Defendant's ..... Petitioner's ..... Respondent's ..... Relator's .....

Briefs .....

County Clerk's No. 41674 / 19 75

Spec I Liber 1-100 Line 3, 19 75

2a

County of [illegible]

Millicent Linden 500 East 74th Street New York, New York 10021

The Honorable Judge Starke, SUPREME COURT OF THE STATE OF NEW YORK
60 Centre St. N.Y. 10007, Room 519

November 15, 1975

Dear Judge Starke:

Unusual, perhaps even special, circumstances compel me to write to you in the cause of justice in the matter of Linden v. Novick, Index no. 41674/75 which is on your Motion calendar, October 24th, no.102.

The moving party, defense attorney, ISAACSON, ROBUSTELLI, FOX, FINE & GRECO, stated in the moving papers that a letter dated September 4, 1975 was sent to the plaintiff, the writer, stating also that a copy os same was annexed to the brief. The facts are as follows:

1. Said letter is NOT in the county clerk's original file;
2. Plaintiff never received said letter;
3. Copy of said letter was not annexed to papers sent plaintiff;
4. Plaintiff could not reply to alleged contents in the Motion in opposition for the scheduled date of October 24th, having searched with the court clerk in Spectial Term Part I on October 21st, without locating them at that time, and so reported to your office.

Yesterday I received a letter from defense attorney with a copy of said letter attached. Both are enclosed herein. With the letter now in hand, plaintiff can present facts with certainty, having also ascertained the actual aanexation of said letter to the moving papers by your assistant Mr. Newman and Mr. Trachtenberg on the phone.

Claims in said letter are entirely invalid; for example, the response to the demand for the bill of particulars is verified, duly sworn to, as filed in the court record and so noted by the chief clerk in the Calender office, otherwise the papers would not have been accepted by Mr. Sirkus who looked them over hismelf personally, which is contrary to claim in said letter.

Also, the items are responded to directly, item by item and proven by the record; And where the claim to "explain what is required" is also not supported since no specific items were submitted at any time in more than the 30 days passage of time between the demand and the response and the next correspondence for Inspection and Discovery, the latter of which was duly and quickly responded to with undeniable affirmation of facts. Besides, it si inconceivable that plaintiff would allow all the previous hard labors to be in jeopardy by not responding to any additional demands.

Without said letter in hand, supported by the record on file of its not ever having been sent or received, plaintiff could not reply with aforementioned facts with the same certainty the contents of the alleged letter now provide. It must, therefore, have a bearing on the motions before the court. The court must also know that defense attorney has repeated theiidentical actions in the identical motions before Judge Postel's court and motion calendar of October 31, 1975.

Plaintiff assiduously follows court and legal procedures where known, and always provides exact duplicates of contents to court and the opposition and verfies same with affidavit of service by mail. Plaintiff assumes that the practicing lawyer for the defense is also aware of these procedures and must therefore also have signed a sworn statement of having sent the same copies to the opposition as is sent to the court, otherwise/without exact copies the opposition is placed in disadvantageous position as now. Plaintiff would appreciate your attention and acknowledgement to the above.

3

Millicent Linden 500 East 74th Street New York, New York 10021

Justice Postel
THE SUPREME COURT OF THE STATE OF NEW YORK
100 Centre Street Room 1727
New York, New York 10013

RECEIVED
CALENDAR CLERK
NOV 1975
CIVIL COURT
NEW YORK COUNTY

Dear Sir:

In accordance with the instructions by Mr. Fiorella, I write to you with regard to the matter of a Motion of October 31st.

The moving party in the motion is the Defendant in the action of Linden v. Novick. Index No. is 41674/75; the calendar no. is 121. The writer is plaintiff pro se; motion in opposition has been submitted.

Defense attorney, ISSACSON, ROBUSTELLI, FOX, FINE & GRECO, has two motions that are identical: the aforementioned and one for Oct. 24th with Judge Starke. The matter at hand is the same in both cases;

On page 2 in the moving party's papers on your calendar is the following statement: (first paragraph)

"Copies of the demand and response and our letter are annexed herein...."

Said copies were not annexed to the papers sent to the writer, plaintiff;

The same said copies are not on file in the original court record in the County Clerk's office.

In the moving papers before Judge Starke of the identical motion, the aforementioned papers are dated as of September 4th, 1975. Judge Starke's secretary will inform the writer-plaintiff whether or not they are attached to the original court papers on Monday afternoon and will make arrangements for plaintiff to have copy of same.

Plaintiff hereby makes like request to be informed whether or not said papers are annexed to the original court papers and makes request to have a copy of same if they are annexed to the motion. Plaintiff also wishes to know if the Affidavit of Service of having sent said papers to the plaintiff through the mail.

Plaintiff regrets any inconvenience the matter may cause, but is mindful that it is important to know what defense attorney has submitted to the court otherwise plaintiff can make no response and submit the fact that those papers are not on file in the original court record, which would indicate their non-existence and invalidation.

Thank you kindly for your time and attention.

Sincerely,

Millicent Linden

Millicent Linden

COMMERCE

Index No. 3568 Year 1975 Cal. No. P75N28599

CIVIL COURT, CITY OF NEW YORK
COUNTY OF NEW YORK

Linden vs. Novick

Trial set for / Pre trial set for / Restored — Part Room Time Date

Before Judge

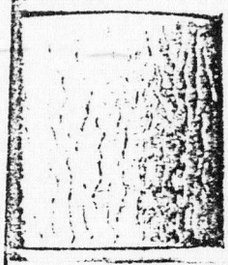
Remarks SUPREME COURT TRANSFER SEC. 325-C or D-CPLR
FOLLOW YOUR CASE IN THE LAW JOURNAL.

Failure to appear may result in case being marked off, dismissed, or set for inquest.

Phoenix Ingraham
Chief Clerk
Chief Clerk

Form 43-1049-25M-807126(74) 346

NOTE: Please bring this card with you.



Index No. 3568 Year 1975 Cal. No. P75N28599

CIVIL COURT, CITY OF NEW YORK
COUNTY OF NEW YORK
111 Centre Street, New York, N. Y. 10013

Dear Sir:

The case of Millicent Linden
vs. Nathan Novick
will appear on the calendar on JAN 8 - 1976
at 9:30 A.M. for trial in Part Room 325 — Third Floor
Jury

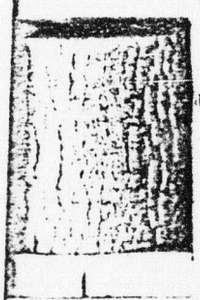
Answer in person:

( ) General Denial
( ) .....

Respectfully,
Phoenix Ingraham
Chief Clerk of the Court

Note: *Please bring this card with you.*

43-X-100N.Y.-20M-225028(74) 346



ON ENV. Jan. 7, 1976 15-d

Jan 8th AFTER COURT SESSION UNDATED UNSTAMPED

ON JAN. 7th OR JAN 8th OK ANY RECORD BOOK

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY

at the Courthouse thereof, 60 Centre Street, New York, New York, 10007.

Present; Hon. GEORGE POSTER

Justice.

Millicent Linden

— against —

Mathan Novick

The following papers numbered 1 to ..... read on this motion, Submitted

No. 121 on Calendar of Oct. 31, 1975

	PAPERS NUMBERED
Notice of Motion - Order to Show Cause - and Affidavits Annexed & Exhibits	1-10
Answering Affidavit & Moving & Exhibits	11-21
Replying Affidavit & Exhibits	22-23
..... Affidavit	
..... Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

Upon the foregoing papers this motion to strike the case from the trial calendar for failure on the part of the defendant to complete all pre-trial proceedings is granted. The delay can be attributed to the plaintiff's proceeding pro se in this action, and she, therefore, cannot now be heard to complain.

Dated .....

J.S.C.

Briefs; Plaintiff's ..... Defendant's ..... Petitioner's ..... Respondent's ..... Relator's .....

Briefs .....

County Clerk's No. 41674, 19 75

Spec. I Liber 1404 Line 7, 19 75

6

500 EAST 74TH STREET - NEW YORK, N. Y. 10021

Index No. 3569 Year 19 75

Cal. No. P75N08599

Civil Court of The City of New York

County of New York

Millicent Linden
Plaintiff

vs.

Nathan Novick
Defendant

Cause of Action Personal Injuries

Amt. $1,500,000 Trial Set by Clerk JAN 8 - 1976

DISPOSITIONS Jury

1/8/76
OFF CALENDAR

HON. BERNARD WEISS

Decision

Papers Subpoenaed to

J. C. C.

19

6a

Index No. 3565 | 1975

SPECIAL TERM, PART I

Motion Cal. No.

VINCENT LUDDEN

against

NATHAN QUICK

Present:

Hon. SEYMOUR SCHWARTZ
Judge.

The following papers used on this motion to PRECLUDE AND CROSS MOTION

submitted this 12 day of JANUARY, 1976

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

FILED
76 JAN 16 A9:43
CIVIL COURT-N.Y. CTY

DEFENDANT'S MOTION TO PRECLUDE PLAINTIFF FROM GIVING ANY EVIDENCE AS TO ACTS OR OMISSIONS INVOLVING ALLEGED MALPRACTICE AS DEMANDED IN PARAGRAPH 3 OF DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS IS GRANTED, PLAINTIFF HAS FAILED TO COMPLY WITH THE CLEAR MANDATE OF THE ORDER OF JUSTICE GEORGE STARKE OF DECEMBER 10, 1975.

J.C.C.

Dated JANUARY 12, 1976

(7)

55

Index No. 3563/75 SPECIAL TERM, PART I

Motion Cal. No. 64 1 16

MILLICENT LINDEN, Plaintiff, *against* NATHAN KOVIK, DEFENDANT.	Present: Hon. SEYMOUR SCHWARTZ *Judge.*

The following papers used on this motion to Restore case to calendar.

submitted this _____ day of _____, 19

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

26 JAN 21 A 9:35

Motion denied without prejudice to renewal upon completion of discovery proceedings. See orders of Judges Starke and Postel.

Dated January 19, 1976

J.C.C.

8

56

Index No. [illegible]/1975 [illegible]

Action Cal. No. [illegible]

[illegible]

against

[illegible]

Present:

Hon. [illegible] Judge.

The following papers used on this motion for RECONSIDERATION AND TO CONFIRM COMPLIANCE submitted this 17 day of FEBRUARY, 1976.

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

PR FEB 26 A 9:42

PLAINTIFF PRO SE MOVES FOR A COURT ORDER CONFIRMING COMPLIANCE WITH THE PREVIOUS ORDER OF MR. JUSTICE STARKE OF DECEMBER 10, 1975, WHICH DIRECTED A REPLY TO ITEM "3" OF DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS. THE MOTION SHALL ALSO BE CONSIDERED AS ONE FOR RECONSIDERATION OF THIS COURT'S ORDER OF JANUARY 12, 1976, PRECLUDING PLAINTIFF.

AFTER ORAL ARGUMENT BY PLAINTIFF PRO SE AND COUNSEL FOR DEFENDANT, PLAINTIFF'S MOTION IS DENIED. ITEM "3" OF THE BILL OF PARTICULARS HAS NOT BEEN ANSWERED TO DATE AND THE ORDER OF PRECLUSION IS THEREFORE STILL APPLICABLE.

Dated FEBRUARY 25, 1976

J.C.C.

9

57

County of [illegible]

Index No. [illegible]

SPECIAL TERM, PART I

Motion Cal. No. [illegible]

[illegible]

against

[illegible]

Present:

Hon. [illegible] Judge.

The following papers used on this cross motion to FOR A FURTHER BILL OF PARTICULARS

submitted this _____ day of _____, 19

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

FILED
76 MAR 16 A 9:52
CIVIL COURT-N.Y. CTY

DEFENDANT'S CROSS MOTION FOR A FURTHER BILL OF PARTICULARS IS GRANTED. PLAINTIFF IS DIRECTED TO SPECIFY BY PAGE, PARAGRAPH AND WORDS FROM HOSPITAL RECORDS AND ALL OTHER SOURCES OF WHICH DEFENDANT HAS COPIES, THE STATEMENTS AND ALLEGATIONS OF WHICH SHE RELIES REGARDING DEFENDANT'S ALLEGED NEGLIGENCE AND HER INJURIES.

Dated MARCH 12, 1976

J.C.C.

10

58

43-2030 66M-1122014(74) 346

CIVIL COURT OF THE CITY OF NEW YORK

County of NEW YORK

Index No. 3568/1975 SPECIAL TERM, PART I

Motion Cal. No. 23 3/29

MILLICENT LIDDEN

against

NATHAN NOVICK

Present:

Hon. SEYMOUR SCHWARTZ
Judge.

The following papers used on this motion to RESTORE ACTION TO CALENDAR, ETC.

submitted this 29 day of MARCH, 1976

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

75 APR 30 A9:40

PLAINTIFF'S MOTION IS DENIED IN ALL RESPECTS.

THERE HAS STILL BEEN A (FAILURE) TO COMPLY WITH *JUDGE STARKE'S ORDER OF DECEMBER 10, 1975 AND THIS COURT'S ORDERS OF JANUARY 19 AND FEBRUARY 26, 1976 IN RESPECT TO PLAINTIFF'S BILL OF PARTICULARS.

AS TO THE ADJOURNED DATE OF THE EXAMINATION BEFORE TRIAL, IT WOULD APPEAR THAT IT WAS ..... * ORIGINAL MOTION ...

AS TO THE ADJOURNED DATE OF THE EXAMINATION BEFORE TRIAL, IT WOULD APPEAR THAT IT WAS DIRECTED BY JUDGE WHITMAN.* → ORIGINAL MOTION BEFORE JUDGE WRIGHT

Dated APRIL 28, 1976

1

J.C.C.

11

IN AUG. 1975

* EX. NOS. 1 & 2 - VERIFIED B/O/P COUNTY CLERK RECORD
JUDGE STARKE'S MANDATE TO VERIFY B/O/P IN OCTOBER 1975

58-a

43 2030-66M-1122014(74) 346

CIVIL COURT OF THE CITY OF NEW YORK

County of NEW YORK

Index No. 3568/1975 SPECIAL TERM, PART I

Motion Cal. No. 78-1/30.

MILLICENT LINDEN

against

NATHAN NOVICK

Present:

Hon. SEYMOUR SCHWARTZ *Judge.*

The following papers used on this ~~motion~~ ORDER TO SHOW CAUSE to RESTORE TO CALENDAR

submitted this 22 day of APRIL, 1976

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

PLAINTIFF'S MOTION TO RESTORE HER ACTION TO THE CALENDAR BROUGHT ON BY ORDER TO SHOW CAUSE IS DENIED.

THIS IS THE FIFTH MOTION BROUGHT FOR THIS PARTICULAR RELIEF.

PLAINTIFF HAS STILL FAILED TO PROPERLY COMPLY WITH DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS AND HER EXAMINATION BEFORE TRIAL HAS NOT BEEN HELD.

PLAINTIFF HAS STILL FAILED TO PROPERLY COMPLY WITH DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS AND HER EXAMINATION BEFORE TRIAL HAS NOT BEEN HELD.

SEE THIS COURT'S ORDER OF APRIL 28, 1976, AND REFERENCES THEREIN.

Dated APRIL 28, 1976

J.C.C.

12

43 2030 6634 1122014(74) 346

CIVIL COURT OF THE CITY OF NEW YORK

County of NEW YORK

Index No. 3568/1975 SPECIAL TERM, PART I

Motion Cal. No. 45-4/14

MILLICENT LINDEN

against

NATHAN NOVICK

Present:

Hon. SEYMOUR SCHWARTZ Judge.

The following papers used on this motion to RESTORE CASE TO CALENDAR

submitted this 14 day of APRIL, 1976

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

FILED 9 APR 30 A9:41

PLAINTIFF'S MOTION TO RESTORE HER ACTION TO THE CALENDAR IS DENIED.

PLAINTIFF HAS STILL (FAILED) TO PROP[illegible] COMPLY WITH DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS AND HER EXAMINA[illegible] BEFORE TRIAL HAS NOT BEEN HELD.

SEE THIS COURT'S ORDER OF APRIL 28, 1976 AND REFERENCES THEREIN.

Dated APRIL 28, 1976

J.C.

43-2030-78M R12083(75)-CD-346

CIVIL COURT OF THE CITY OF NEW YORK

County of N.Y.

Index No. 3568/75 SPECIAL TERM, PART I

Motion Cal. No. 45 - 4/14/76

M. LINDEN

against

N. NOVICK

Present:

Hon. HON. BERNARD WEISS
Judge.

The following papers used on this motion to _____

submitted this _____ day of _____, 19

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

It appears from the opposing affidavit that repeated motions for identical relief have been made before and denied by * Judge Seymour Schwartz, to whom this motion must therefore be referred, as requested by the defendant.

* REGARDLESS OF FACT OF DIFFERENT ISSUES AND THAT THIS COURT WAS NOT INVOLVED PROCEDURALLY!

APR 19 1976

Dated

J.C.C.

CIVIL COURT OF THE CITY OF NEW YORK
County of New York

Linden v. Novick Index No. 3068/75 Cal. No. P75N28599

LIST OF EXHIBITS

Annexed to correspondence to the Honorable Edward Thompson

April 6, 1976

EXHIBIT I: Glossary Index of Court Transcripts - 2 pages

EXHIBIT 2: Court Transcripts - 38 pages

EXHIBIT 3: Court Transcripts - 47 pages

EXHIBIT 4: A System of Orthopaedis & Fractures - 5 pages

EXHIBITS 4-a The Bone as A Whole

EXHIBIT 5: CHIROPRACTIC - 4 pages

EXHIBIT 6: Fundamentals of Orthopaedics - 3 pages

EXHIBIT 7: Medical-Surgical Nursing - 6 pages

EXHIBIT 8: The Chirogram - 3 pages

EXHIBIT 9: Manual of Orthaopidic Surgery - 2 pages

EXHIBIT 10: Red Cross First Aid - 6 pages

EXHIBIT 11: Boy Scouts of America Handbook - 2 pages

EXHIBIT 12: First Aid; Boy Scouts of America; - 3 pages

EXHIBIT 13: An Atlas of Examination - 3 pages

EXHIBIT 14: Medical Records - 31 pages

EXHIBIT 15: Physical Diagnosis - 4 pages

EXHIBIT 16: Defendant's correspondence

EXHIBIT 17: Plaintiff's professional picture

EXHIBIT 18: Plaintiff's professional record

COMPLIANCES TO ALL DEMANDS BY DEFENSE - REPEATED - AND TO ALL COURT MANDATES

Tension - in - Repose
500 EAST 77th STREET - NEW YORK, N. Y. 10021
MILLICENT LINDEN, Director

October 12, 1975

Mr. Specter, Exectuive Chief Clerk, THE SUPREME COURT OF THE STATE OF NEW YORK
60 Centre St., New York, N.Y. 10007

Dear Mr. Specter:

Reflecting upon the events and circumstances of Friday, October 10th, and your assistance in the matter, I feel inclined to write and express my thanks and appreciation. While it may perhaps seem superfluous to you, it is none-the-less not superfluous to me, thus I take the liberty to do so. Your help was not unlike coming upon an oasis in the desert.

You may wish to know, in the meantime, that after checking directly with the original record to ascertain the facts as they are on record, all my papers were in order, properly verified, with the one exception of the Complaint; the only reason that wasn't done was because it had to be accompanied by the summons and was therefore directed to the defendant, not directly to the legal representative, the defense attorney.

This has a bearing upon the facts concerning the events on Friday.

I note that Mr. Cirkus did not ask me for an explanation; he cited solely that of the two clerks. As chief clerk in the Calendar office, it is understandable that he would speak in their "defense", but their behavior was indefensible, and it must also be understood that the "other" side also has a "right".

For example, of the three occasions I was in that office, there was no "long line", inf fact, no one was there at all. Therefore, Mr. Cirkus' statement that I took their time, the clerks', implying that I was interfering with their assistance to others, It is my understanding that the duties of the clerks is to include the assistance in the presentation of the proper papers. I swa that assistance extended cordially to attorneys who were more uninformed that what I presented.

On the first occasion, the shorter, older of the two clerks, never even looked at my first papers. He rudely said, "Go get a lawyer". Well, had that been feasible originally, I should hardly permit myself to tackle the mountain of "procedures" that are unfamiliar to the unintiated. Whatever his prejudice to pro se, it is a prejudice in the literal sense to economic deprivation, and that has its origin to the instant action, to the defendant who made that deprivation so desparate to the point of near-starvation diet. The clerk just gave me the list of the papers to be presented. I took it and came back with all I could do.

The next time, the same clerk just looked at the top paper, saw an oversight logical to a first time, but small compared to the attorneys' snatches of conversation I couldn't help but hear as I waited for my turn, and literally threw down all the papers on the desk towards me. I then went up to the chief clerk's office; only Mr. Fischl was there, Mr. Cirkus was at a meeting. Mr. Fischl took the few moments required to explain what was missing. Then I came bake with all the corrections, and the clerk called "Zeke", began assembling the papers, then simply put on his

coat and went to lunch, leaving me standing there, in the midst of all the papers prepared. There was no one else waiting, and it was more than fifteen minutes before the return of the other, older, shorter clerk who had so rudely behaved previously. There was a gentleman, in a grey suit, medium height, broad build, who looked up when I uttered an involuntary sigh of exasperation. He asked, "Where did the clerk go", I said that the clerk called out he was going to lunch. The gentleman looked genuinely perplexed. One of the typists sitting there said that I was busy cutting away uneven papers, but the man replied that was after the clerk left, that he saw the clerk in discussion with me, then he was gone.

It was at that point that I went again to Mr. Cirkus' office, but it was lunch time, he was not there, and Mr. Fischl this time was annoyed, that it was the clerks' duties, and he shouldn't be bothered with the problem.

Thus I inquired about your office and came directly to see you. You were the only one who grasped the significance of the reason, the sublime discourtesy encountered, and understood that whatever the details of the technicalities, there is no reason for relingquishing fundamental, basic, and decent courtesies. It is so much more unwarranted in a court of law.

You were the only one who expressed apology for those discourtesies. Whatever the work required, I would have complied with those requirements but under those circumstances, that work would be useless.

After checking the original record, showing the verified papers Mr. Cirkus asked for, (made copies on the Xerox in the record room) I was told that I had to submit a motion for the extended date on verifying the Complaint; you can imaginethat I had no desire to prolong the issue at hand and was anxious to get the action on the calendar to avoid further confrontation, so I was forced to make the decision to relinquish the Preference papers and have the action go to Civil Court.

A propos the next event, I must inform you a general fact of the action, both instant and one pending, that is, what a specialist did to cause trauma to the joint of the jaw, a temporomandibular joint specialist, precipitated the brink of complete disaster by another specialist I was compelled to see for treatment of the mandibular dysfunction. Which means, that I must once again confront the clerks and the chief clerk when the time comes to place the jaw specialist court action on the calendar. I dread having to go again to that office. The clerks are the same people and the chief clerk demonstrates his partiality to his clerks. Any citizen has a legal right, given justified grounds, to be heard in court, as pro se as well as by attorney. Therefore, in view of your more understanding nuances of both legal and basic human courtesy aspects of such rights, I present the facts to you in preventive, anitcipatory measures for the time when I must place the second court action on the calendar.

Once again, I extend my well-founded appreciation for your time, understanding and courtesy in your office on Friday.

Sincerely,

Millicent Linden

Ex. No. 14-C

Millicent Linden 500 East 74th Street New York, New York 10021

July 14, 1976

Mr. Phoenix Ingraham, Chief Clerk of the Court
CIVIL COURT OF THE CITY OF NEW YORK
111 Centre Street, New York, N.Y. 10013

Dear Mr. Ingraham:

As you were present at the meeting with Judge Thompson and Mr. Boyer on July 8, 1976 with regard to the matter of

LINDEN v. NOVICK, Index No. 3568/75

and you thereafter want to Mr. Stern, the Appeals Clerk, to copy the Notice of Appeal to the Appellate Term and Judge Walter B. Shackman's order for dismissal on summary judgement, I thought that you may wish to see the submission for RE-ARGUMENT I am entering before filing the appeal papers.

After our discussion, and with the suggestion by Judge Thompson in one instant to "re-argue", I considered that avenue of re-argument as a means to expedite and forestall the Appeal for the sake of court time in case it brings results.

I am, therefore, enclosing a copy of the re-argument papers to Judge Shcakman who had previously expressed his own request to argue the law. I have since explored with more searches for that request by Judge Shackman and used the Court of Appeals Library in the United States District Court which permits pro se use.

The papers are being sent directly to Judge Shcackman as he had previously hadme send a response to defendant's last minute submission at the time of the returnable motion date.

Thank you kindly for your time and attention.

Sincerely,

Millicent Linden

Supreme Court
of the
State of New York

GEORGE POSTEL
JUSTICE

JUSTICES CHAMBERS
NEW YORK COUNTY COURT HOUSE
NEW YORK, N.Y. 10007

April 12, 1976

Ms. Millicent Linden
500 East 74th Street
New York, New York 10021

Dear Ms. Linden:

Before we had an opportunity to dispose of the motion on its merits, Judge Gellinoff transferred your case to the Civil Court of the City of New York. Enclosed is a copy of Judge Gellinoff's decision.

This court was not advised of this fact, because had it been so advised, it would have transferred the disposition of the matter to Civil Court for a determination.

I suggest that you confer with the authorities at Civil Court relative to the trial of your case inasmuch as it is a pending matter there. They can best advise you as to how you can move for trial again.

The recovery you seek can properly be determined on the trial there.

I trust this answers your inquiry.

Very truly yours,

G. Postel

enc.

(15)

At a Trial Term Part.....of the Supreme Court of the State of New York, held in and for the County of ...New York....at the Courthouse thereof, in the County of New York... City and State of New York, on the NOV 25 1975 day of....., 19....

PRESENT:

HON. Abraham J. Gellinoff Justice

FILED
NOV 26 1975
NEW YORK
CO. CLERK'S OFFICE

County Clerk's Index No. 41674-75

Calendar No. 4584

Linden

vs.

Novick

ORDER OF TRANSFER

A General Preference having been denied, and

It appearing that the Civil Court of the City of New York has jurisdiction of the parties to this action and pursuant to Rule 660.21 of the Rules of the Supreme Court, New York and Bronx Counties, dated January 30, 1973, it is

ORDERED, that this cause bearing Calendar Number 4584 be, and it hereby is, stricken from the Trial Term Calendar of this Court and transferred to the Civil Court of the City of New York, County of New York, and it is further

ORDERED, that the clerk of New York County shall transfer to the clerk of the Civil Court of the City of New York, County of New York, all papers in this action now in his possession, upon payment of his proper fees, if any, and the clerk of the Civil Court of the City of New York, County of New York upon service of a certified copy of this order upon him and upon delivery of the papers of this action to him by the clerk of the County of New York, shall place this action upon the appropriate calendar of the said Civil Court, among the issues filed for the October Term, 19 75, for trial, without the payment of any additional fees, and it is further

Ordered, that the above-entitled cause be, and it is hereby, transferred to said Court, to be heard, tried and determined as if originally brought therein but subject to the provisions of CPLR 325(d).

SUPREME COURT - NEW YORK COUNTY

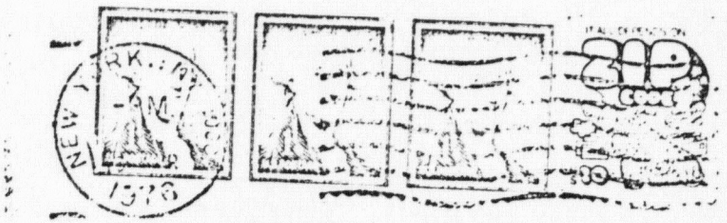
ENTER,

J. S. C.

16

Supreme Court
of the
State of New York

100 CENTRE STREET
NEW YORK, N.Y. 10013



Ms. Millicent Linden
500 East 74th Street
New York, New York 10021

POST MARK ON ENV. JAN. 7, 1976 U.S.

Received Jan 8 — AFTER COURT SESSION

STAMPED + UNDATED UNSTAMPED

NOT IN SPEC. I. ON JAN. 7 = OK JAN 8 = OK ANY RECORD BOOK

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY

at the Courthouse thereof, 60 Centre Street, New York, New York, 10007.

Present: Hon. GEORGE POSTEL Justice.

Millicent Linden

— against —

Mathan Novick

The following papers numbered 1 to ... read on this motion, Submitted

	PAPERS NUMBERED
No. 121 on Calendar of Dec. 31, 1975	
Notice of Motion - Order to Show Cause - and Affidavits Annexed	1-10
Answering Affidavit	11-21
Replying Affidavit	22-23
Affidavit	
Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

Upon the foregoing papers this motion to strike the case from the trial calendar for failure on the part of the defendant to complete all pre-trial proceedings is granted. The delay ...

ON, ROBUSTELLI, FOX, FINE & GRECO, P.C.
277 BROADWAY • NEW YORK, N. Y. 10007

Ms. Millicent Linden
500 East 74th St.
New York, New York 10021

POST MARK JAN. 7, 1976

NOT IN ANY COURT RECORDS JAN. 8, 1976 — SCHEDULED DATE OF TRIAL

18

65-F

Present:
Hon. GEORGE POSTE
Justice.

Millicent Linden

— against —

Nathan Novick

MINUTE BOOK | SPECIAL TERM PART I | N.Y. LAW JOURNAL
JUN 28
TO CTY. CLK. | RECEIVED FROM JUSTICE | DISP'N BOOK

The following papers numbered 1 to ..... read on this motion referred

No. 97 on Calendar of JUN 18 1976

	PAPERS NUMBERED
Notice of Motion - Order to Show Cause - and Affidavits Annexed	1-20
Answering Affidavit	21-23
Replying Affidavit	24-25
Affidavit	
Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

FILED
JUN 28 1976
NEW YORK CO. CLERK'S OFFICE

MINUTE BOOK | SPECIAL TERM PART I | N.Y. LAW JOURNAL
JUN 28 1976
TO CTY. CLK. FOR | RECEIVED FROM JUSTICE | DISP'N BOOK

MOTION FILED FROM JUSTICE GEORGE POSTE TO
Dated JUN 18 1976
OLIVER C. SUTTON J.S.C.

Upon the foregoing papers this Motion for Reargument and to restore this case to the trial calendar is denied without prejudice and with leave to renew should plaintiff be successful in restoring this action, which has heretofore been dismissed in the civil court.

Dated JUN 28 1976

J.S.C.

Briefs: Plaintiff's ..... Defendant's ..... Petitioner's ..... Respondent's ..... Relator's .....

Briefs .....

County Clerk's No. 41674 1975

Spec I Liber 1-59 Line 3 1976

19

ISAACSON, ROBUSTELLI, FOX, FINE & GRECO, P.C.

Answering Affidavit

Replying Affidavit

Affidavit

Affidavit

Pleadings — Exhibit

Stipulation — Referee's Report — Minutes

Filed Papers

FILED

AUG 28 1976

NEW YORK
CLERK'S OFFICE

Upon the foregoing papers this Motion to restore Case to the trial calendar is denied without Prejudice and with leave to renew should Plaintiff be successful in restoring this action which has heretofore been dismissed in the Civil Court.

Dated JUL 2 - 1976

J.S.C.

Briefs: Plaintiff's Defendant's Petitioner's Respondent's Relator's

Briefs

County Clerk's No. 41674 19 75

Spec I Liber 159 Line 3, 1926

19

ISAACSON, ROBUSTELLI, FOX, FINE & GRECO, P.C.
277 BROADWAY • NEW YORK, N. Y. 10007

NEW YORK, N.Y. -PM 30 JUL 1976

Ms. Millicent Linden

500 E. 74th Street

New York, New York 10021

19

65 - 8 AUGUST 19, 1976

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY

At the Courthouse thereof, 60 Centre Street, New York, New York, 10007

Present: Hon. GEORGE POSTEL

Millerenstenden

— against —

Nathan Novick

MINUTE BOOK | CHECKED | NOTED

AUG 19 1976

The following papers numbered 1 to 22 read on this motion, SUBMITTED

	PAPERS NUMBERED
No. 108 on Calendar of AUG 19 1976	1 - 4
Notice of Motion - Order to Show Cause - and Affidavits Annexed	5 - 21
Answering Affidavit	22
Replying Affidavit	
Affidavit	
Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

Upon the foregoing papers this motion is denied with leave to renew after the appeal in this case has been decided by the Appellate Term.

Settle order.

Dated

J.S.C.

Briefs: Plaintiff's Defendant's Petitioner's Respondent's Relator's

Briefs

County Clerk's No. 41674, 1975

Spec I Liber 181 Leg 3, 1976

60

117

66

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY

at the Courthouse thereof, 60 Centre Street, New York, New York, 10007.

Present: Hon. CHARLES TIERNEY

Justice.

MILLICENT LINDEN

— against —

NATHAN NOVICK

JOURNAL
JUN 25
TO CITY CLK. RECEIVED FROM JUSTICE DISP'N BOOK

The following papers numbered 1 to 22 read on this motion, ... SUBMITTED

No. 145 on Calendar of MAY 7, 1976

	PAPERS NUMBERED
Notice of Motion - Order to Show Cause - and Affidavits Annexed	1-10
Answering Affidavit	11-13
Replying Affidavit	14-22
Affidavit	
Affidavit	
Pleadings — Exhibit	
Stipulation — Referee's Report — Minutes	
Filed Papers	

~~Upon the foregoing papers~~ Plaintiff, pro se, moves for what she denominates an order to furnish an accounting. In fact, the motion seeks to have this Court vacate an order of the Civil Court striking the matter from the calendar for failure to prosecute.

The matter has been duly transferred to Civil Court as plaintiff has been advised in a personal letter from Mr. Justice Postel and this Court has neither jurisdiction of the case nor the authority to grant the relief requested.

Motion dismissed.

FILED
JUN 23 1976
NEW YORK
CO. CLERK'S OFFICE

Dated JUN 25 1976

J.S.C.

Briefs: Plaintiff's ..... Defendant's ..... Petitioner's ..... Respondent's ..... Relator's .....

Briefs .....

County Clerk's No. 41674, 19 75

Spec I Liber L 42 Line 10, 19 76

Millicent Lindon 500 East 74th Street New York, New York 10021

May 13, 1976

The Honorable Walter B. Shackman
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK
111 Centre Street
New York, New York 10013

Re: LINDEN v. NOVICK

Index No. 3568/75
Cal. No. P75N28599

Motion Cal. Date: April 26, 1976

Dear Judge Shackman:

In the absence of any court order to the contrary, plaintiff, the writer, appeared at Special Term Part II in Civil Court on May 13, 1976 at 2:00 p.m., and left at 2:45 p.m.

Defense attorney did not appear at any time thereof.

Defense attorney had stupulated the aforementioned date and time in his own statement of adjournment on March 15, 1976. On March 15, 1976, defense attorney did not take oral examination though plaintiff was there waiting from 2:00 o'clock on when defense appeared at 2:20.

Defense attorney gave no reason for adjournment on said date of March 15, 1976 though the court order mandated said examination at Civil Court on record for that date by defense.

Defense attorney did not send any notice of any kind prior to the present date of May 13, 1976 to state attendance or no attendance. Copy of defendant's adjourned date, copy of defendant's scheduled date previously arranged by defense, and the clerk's signature of plaintiff's attendance for this date are annexed herein.

These facts are presented as supplement to the motion before this court by plaintiff to suppress further oral examination by defendant for the reasons given in the previous brief and for the aforementioned reasons herein.

Respectfully submitted,

Millicent Lindon
Plaintiff, Pro Se

To: The Court Clerk
Room 225

To: Isaacson, Robustelli, Fox
Fine & Greco
277 Broadway, New York N.Y.10007

71 - 2

Form D

2M-17820-76

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on June 1, 1976

Present—Hon. Harold A. Stevens, Presiding Justice,
Arthur Markewich,
Theodore R. Kupferman,
Francis T. Murphy, Jr.,
Louis J. Capozzoli, Justices.

----------x

In the Matter of Millicent Linden,
Petitioner, :

-against- : 2628
[M-1339,
M-1547]

Hon. Seymour Schwartz, Justice of the Civil Court, :
Respondent. :

----------x

The above-named petitioner having presented a petition to this Court praying for an order, pursuant to Article 78 of the Civil Practice Law and Rules, in the nature of mandamus, compelling restoration to the calendar of an action entitled Millicent Linden v. Nathan Novick, vacating the motions to preclude, suppressing further oral examination, and for other relief,

And the respondent having served and filed upon petitioner a notice of cross-motion to dismiss the aforesaid proceeding,

Now, upon reading and filing the notice of application, dated April 23, 1976, with proof of due service thereof, and the petition of Millicent Linden, sworn to April 23, 1976, and the addenda and exhibits annexed thereto, and the affidavit of petitioner, sworn to May 14, 1976, and communication of petitioner, dated May 4, 1976, all read in support of the application; the notice of cross-motion of the respondent to dismiss the proceeding, dated May 11, 1976, with proof of due service thereof and the affidavit and memorandum of David L. Birch in support of the cross motion and in opposition to the application; and after hearing Millicent Linden, appearing pro se, for the application and opposed to the cross-motion, and Mr. David L. Birch for the cross-motion and opposed to the application; and due deliberation having been had thereon,

It is unanimously ordered that the application be and the same hereby is denied, the cross-motion granted, and the petition dismissed, without costs and without disbursements.

ENTER:

HYMAN W. GAMS

Clerk.

22

COMMITTEE ON GRIEVANCES
OF
THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
38 WEST 44TH STREET
NEW YORK, N. Y. 10036

ROOM 914

AREA CODE 212
MURRAY HILL 2-0606

JOHN G. BONOMI
CHIEF COUNSEL

OSCAR J. COHEN
RONALD EISENMAN
SAUL FRIEDBERG
MORRIS GUTT
ASSOCIATE COUNSEL

DANIEL J. BLOOM
RALPH V. CAPUTO
IRVING GERTEL
WILLIAM A. PRIMERANO
ASSISTANT COUNSEL

December 2, 1975

Ms. Millicent Linden
500 East 74 Street
New York, New York
10021

Re: Complaint against Isaacson, Robustelli, Fox, Fine & Greco, Esqs.,

Dear Ms. Linden:

We are in receipt of your letter dated November 16, 1975.

As you indicated in your letter, your complaint is the subject of a pending lawsuit. The Court rather than the Grievance Committee must resolve the issue in question.

Under the circumstances, we are closing our file subject to your right to communicate with this office if, upon the conclusion of any further proceedings had with respect to this matter, evidence of professional misconduct is presented.

Very truly yours,

John G. Bonomi
Chief Counsel

By Ronald Eisenman
Ronald Eisenman
Associate Counsel

JGB/RE/BC

(73)

COMMITTEE ON GRIEVANCES
OF
THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
36 WEST 44TH STREET
NEW YORK, N. Y. 10036

JOHN G. BONOMI
CHIEF COUNSEL

OSCAR J. COHEN
RONALD EISENMAN
SAUL FRIEDBERG
MORRIS GUTT
ASSOCIATE COUNSEL

DANIEL J. BLOOM
RALPH V. CAPUTO
IRVING GERTEL
WILLIAM A. PRIMERANO
ASSISTANT COUNSEL

ROOM 914

AREA CODE 212
MURRAY HILL 2-0606

January 20, 1976

Ms. Millicent Linden
500 East 74 Street
New York, New York
10021

Re: Complaint against Isaacson, Robustelli, Fox, Fine & Greco, Esqs.,

Dear Ms. Linden:

We are in receipt of your letters dated December 16, 1975, January 2, 3, and 10, 1976, regarding the above attorneys.

The matter which you have presented for consideration indicates no evidence of professional misconduct which would warrant action by the Committee on Grievances.

Accordingly, we are closing our file.

Very truly yours,

John G. Bonomi
Chief Counsel

By _____
Ronald Eisenman
Associate Counsel

JGB/RE/BC

COMMITTEE ON GRIEVANCES
OF
THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
36 WEST 44TH STREET
NEW YORK, N Y 10036

ROOM 914

AREA CODE 212
MURRAY HILL 2-0606

JOHN G BONOMI
CHIEF COUNSEL

OSCAR J COHEN
RONALD EISENMAN
SAUL FRIEDBERG
MORRIS GUTT
WILLIAM A PRIMERANO
ASSOCIATE COUNSEL

EILEEN COURTNEY
IRVING GERTEL
MICHAEL A SCHWARTZ
ASSISTANT COUNSEL

September 7, 1976

Ms. Millicent Linden
500 East 74th Street
New York, N.Y. 10021

Re: In the matter of Isaacson, Robustelli, Fox, Fine & Greco , Esqs.

Dear Ms. Linden:

Upon receipt of your letter dated May 29, 1976, your file was reviewed.

After consideration we have determined that the original disposition made in your matter was correct.

Very truly yours,

John G. Bonomi
Chief Counsel

By Ronald Eisenman
Ronald Eisenman
Associate Counsel

RE:RCU

(25)

Index No. 3568 Cal. No. P 75 N 28599

Linden v. Novick

CIVIL COURT CITY OF NEW YORK COUNTY OF NEW YORK
Trial date:
January 8, 1975

Transcription of Court Minutes-August 15, 1974

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Summary

Defendant acknowledges original complaint in neck spine; diagnoses rotated sacroiliac, suspects fracture from sitting position described in mail weeks later; states accepted procedure in fracture admits he did not order X-ra is to X-ray;/states "do not expose to X-ray insult" admits X-rays with other patients; acknowledges conduction of forces to sustain fracture, does not answer to "sitting" as a conduction of forces; performs orthopedic test/for (improperly performe inflammatory hip disease for suspicion of fracture; describ active movement test he performed suspecting fracture that procedure in fracture is immobilization & X-ray, but does neither; admits to twist ing knee for test of pelvis without stabilizatio

Index No. 3568 Cal. No. P 75N 28599

CIVIL COURT CITY OF NEW YORK COUNTY OF NEW YORK

Linden v. Novick

Trial date: January 8, 1975

Transcription of Court Minutes - August 27, 1974

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SUMMARY

Defendant's statements are in constant contraction, making them exactly opposite each other; he states he does not know of plaintiff's dancing, walking, lecturing then admits them; claiming they were done by will power- yet can't explain why paraplegics with will power cannot walk; admits such physical activities require energy & vitality, that plaintiff was engaged in such physical work prior & during year's treatments-own written letter to plaintiff's publisher of value of plntiff's wo does not follow prescribed, standa proof in professional documents her

Index No. 3508

Calendar No. P 75 N 28599

Linden v. Novick

CIVIL COURT NEW YORK CITY, COUNTY OF NEW YOURK, Trial January 8, 1975

Supplement to Medical & Hospital Records of
Physical Incapacitation

List of Limi ations in Daily Routines

enforced alternation of sitting, standing, lying down & walking at varying intervals;
can't sit on any contoured chair seat, hard or soft chairs & sitting, standing or walking too long put the muscles in spasms;

can't pick up anything without disturbing the disturbed inner balance; the misaligned pelvis becomes further misaligned necessitating professional treatment to keep it from further severity

muscles, nerves, bones out of normal balance in themselves and with each other; normal movements create disturbances, such as opening a door without first setting the whole body first in place; uneven reaching throws the pelvis off its position;

can't carry any normal amount of groceries; 5 pounds throws the balance off

muscles loosened; normal muscle tone gone; normal vitality gone; must stop frequently in middle of block to look for steps to sit on to rest before continuing walking

can't sleep in normal positions: no turning, must lie entire time on back, and must rise during the night when muscles spasms come on;

must stand for breakfast everyday and frequently for dinner

cannot wear old ar new familiar type shoes; must wear entirely flat heel

can't pick up feet to get to the bottome surfaces for any reason;

can't get into old-fashioned bathtub-too high; pelvis becomes disturbed;

can't do any kind of work, not even own professional program of stretching the muscles in a specific design however simple and familiar of 15 years standing; pelvis becomes disturbed;

can't dance at all though dancing has been as normal and natural as breathing from earliest memories; can't teach fundamentals of dance movement included in professional program;

can't sing in normal, familiar capacity either spontaneously or in professional vitality; singing, like dancing, was as normal and natural as breathing with equal ease; energy gone.

Ref's J in Ind
Aug 14, 1974/5 2

NATHAN D. NOVICK, D. C.
Chiropractor
33 WEST 42ND STREET
NEW YORK, N. Y. 10036
PENNSYLVANIA 6-2944

PJ

May 6th. 1965

Mr. Knoxburger
Fawcett-Gold Medal Books
67 West 44th. Street
New York, N.Y.

Dear Mr. Knoxburger:

It has come to my attention that you are in the process of printing a book on the stretching movements of Millicent Linden.

Miss Linden's work first came to my attention in the remarkable results attained by one of my patients. There was a radical improvement in an overly accented Antero Posterior Curvature. The spinal curves assumed a much more normal contour after my patient placed herself under the regime set forth by Miss Linden.

I send this letter commending you upon bringing this constructive work to the attention of the general public.

Sincerely yours,

Dr. Novick

Nathan D. Novick, D.C.,F.A.C.C.

NDN
mg.

29

(2) This original Summons must be filed in the Clerk's office within SEVEN DAYS after service of the copy summons on the defendant.

Index Number 30785 Year 19

Civil Court of The City of New York

COUNTY OF NEW YORK

Vincent Linden

Plaintiff,

against

Dr. Nathan Ingrish
25 West 43rd St
New York, N.Y. 10036

Defendant.

SUMMONS

Ln 1403

To the above-named Defendant:

YOU ARE HEREBY SUMMONED to appear in this action in the Civil Court of the City of New York, County of NEW YORK, before the clerk of the said court at his office at 111 Centre Street New York 13, N. Y., in the County of NEW YORK, in the City of New York, within ten days after the service of this summons upon you, exclusive of the day of service, and to make answer to the complaint; and if you fail to make answer, judgment will be taken against you for the sum of $10,000.00, with interest thereon from the ..... day of ....., 19....., together with the costs of this action.

DATED New York City, the 18 day of March, 19 74

LEONARD SILVER
ACTING CHIEF CLERK

Chief Clerk

Plaintiff's Address 500 East 74th St
New York, N.Y. 10021

A statement of the nature and substance of the plaintiff's cause of action is as follows:

Personal injuries sustained by the plaintiff
~~Damage to plaintiff's~~
due to the sole negligence of the defendant,
~~h agents or employees~~ in the ownership,
operation and control of ~~his~~ Chiropractic services rendering

1 COMPLAINT IN FIRST SUIT

First Series
No 62655

43-4009-10M-913019(72) 346

30

Motion Cal. No. [illegible]

LINDEN

against

NOVICK

Present:

Hon. [illegible]

Judge.

~~The following papers used on this motion to~~

~~submitted this ____ day of ____, 19~~

	Papers Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	
Answering Affidavits	
Replying Affidavits	
Filed Papers	
Commission	
Exhibits	
Copies Papers	
Referee's Report	
Stenographer's Minutes	
Stipulation	
Printed Book	

74 AUG 29 AM 8:43

During the trial of this case no medical evidence was offered to substantiate plaintiff's claims of injuries causally related to the incident in question.

In addition, there was no proof that defendant, in treating plaintiff, failed to exercise the requisite degree of care and skill* commensurate with prevailing standards practices (See 45 N.Y. JUR Physicians & Surgeons, Secs. 56 and 132)

Judgment for defendant.

* COMMENSURATE WITH PREVAILING STANDARDS AND PRACTICES"

SEE ANNEXED SUMMARY OF TRANSCRIPTS WITH DEFENDANTS STATEMENTS TO EXACT OPPOSITE

Dated Aug 28, 1974

J.C.S.

31

Form No. 4

1479-64 (C.S.)

At an Appellate Term of the Supreme Court, first department, held at the Court House, Borough of Manhattan, City of New York, on the 10th *day of* October, 1974.

Present:—Hon. SIDNEY A. FINE J.P.

" EDWARD R. DUDLEY

" HARRY B. FRANK *Justices.*

FILED
OCT 1 0 1974
NEW YORK
CO. CLERK'S OFFICE

MILLICENT LINDEN

Plaintiff-Appellant,

vs.

NATHAN NOVICK,

Defendant-Respondent.

Order upon motion. 48347/74

The above named appellant having by notice of motion dated the 17th day of September 1974 moved for an order permitting the filing of a notice of appeal without payment of the filing fee, and granting appellant leave to prosecute the appeal as a poor person,

Now upon reading and filing said notice of motion and the ~~statement~~ affidavits of Millicent Linden ~~affirmed~~ verified the 19th day of September 1974 and the papers annexed

in favor of said motion, and the ~~affidavit~~ statement of Assistant Corporation counsel Irwin L. Herzog,/ affirmed ~~verified~~ the 24th day of September 1974 interposing no opposition thereto and the statement of Richard J. Purcell affirmed the 8th day of October, 1974 and the papers annexed thereto

in opposition thereto,

IT IS ORDERED that said motion be and the same hereby is granted without opposition to extent of permitting the plaintiff to file a notice of appeal in the Civil Cour of the City of New York, New York County, without payment of the filing fee and have the appeal heard on the original record and five (5) copies of appellant's briefs. The stenographer of the trial court shall make, certify and file two copies of the transcript of the proceedings with the Clerk of the Civil Court o the City of N.Y., N.Y. County, who is directed to furnish without charge one co to the appellant, Millicent Linden. Appellant shall make the aforesaid transcr available to Werner, Kennedy and French, attorneys for the defendant simultaneo ly with the service of appellant's brief. The transcript is to be returned to a pellant upon argument or submission of the appeal.

Enter,

32

At a Special Term Part II of the Supreme Court of the State of New York, held in and for the County of New York.

Borough of Manhattan, City and State of New York on the 22nd day of July, 1975

Index # 41674/75

RECEIVED
JUL 23 1975
COUNTY CLERK
NEW YORK COUNTY

PRESENT: MARGARET MARY J. MANGAN

Hon. _____
Justice

IN THE MATTER OF THE APPLICATION OF MILLICENT LINDEN

to sue as a poor person.

On reading and filing the annexed petition of Millicent Linden verified the 22nd day of July, 1975, in personal service, by plaintiff, the petitioner, dated the 22nd day of July, 1975, to serve pro se pursuant to section 1101 of the CPLR, and the Court being satisfied with the truth of the facts alleged and it appearing that the petitioner may have good cause of action for malicious and willful misconduct in inflicting severe and serious trauma as set forth in defendant's own words under oath in court testimony as conslcuisive evidence and proof of said claim.

NOW, on motion of plaintiff, Millicent Linden, the petitioner, it is

ORDERED, that the petitioner be permitted to prosecute this action against Nathan Novick as a poor person, and it is further

ORDERED, that the Clerk of this Court be and he hereby is directed to make no charge for any fees or costs or for certifying on copy of the judgement to plaintiff in connection with the prosecution of this action, ~~and it is further~~.

Entered 5/ [illegible]

33

ITEM 5

I hereby certify that the foregoing paper is a true copy of the original thereof filed in my office on the day of NOV 25 1975

At a Trial Term Part.....of the Supreme Court of the State of New York, held in and for the County of ...New York....at the Courthouse thereof, in the County of New York..., City and State of New York, on the day of....., 19....

NOV 25 1975

FILED
NOV 25 1975
NEW YORK
CO. CLERK'S OFFICE

PRESENT:
County Clerk and Clerk of the Supreme Court, New York
HON. Abraham J. Gellinoff
Justice

Linden

vs.

Novick

County Clerk's Index No. 41674-75

Calendar No. 4584

ORDER OF TRANSFER

A General Preference having been denied, and

It appearing that the Civil Court of the City of New York has jurisdiction of the parties to this action and pursuant to Rule 660.21 of the Rules of the Supreme Court, New York and Bronx Counties, dated January 30, 1973, it is

ORDERED, that this cause bearing Calendar Number 4584 be, and it hereby is, stricken from the Trial Term Calendar of this Court and transferred to the Civil Court of the City of New York, County of New York, and it is further

ORDERED, that the clerk of New York County shall transfer to the clerk of the Civil Court of the City of New York, County of New York, all papers in this action now in his possession, upon payment of his proper fees, if any, and the clerk of the Civil Court of the City of New York, County of New York upon service of a certified copy of this order upon him and upon delivery of the papers of this action to him by the clerk of the County of New York, shall place this action upon the appropriate calendar of the said Civil Court, among the issues filed for the October Term, 19 75, for trial, without the payment of any additional fees, and it is further

Ordered, that the above-entitled cause be, and it is hereby, transferred to said Court, to be heard, tried and determined as if originally brought therein but subject to the provisions of CPLR 325(d).

SUPREME COURT - NEW YORK COUNTY

TRANSFER OF SECOND SUIT FROM SUPREME TO CIVIL COURT

JURY FEE PAID

ENTER,

34

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

76 Civ. 4403 Judge Kevin Duffy

List of EXHIBITS in Record 76 Civ. 4403

1. Supreme Court order instituting plaintiff's suit in Forma Pauperis
2. Appellate Term order for transcripts; summons & judgement; 3 pages
3. Show Cause, Complaint; Transcript summaries - 5 pages
4. Professional credentials, plaintiff's; 6 pages
5. Supreme Court transfer to Civil Court; Civil Court trial date; 4 pages
6. Correspondence, Supreme Court Executive Chief Clerk of Court; 2 pages
7. VERIFIED Bill of Particulars, excerpted, original & repeated; 2 pages
8. County Clerk's date-stamped briefs, excerpted, plaintiff's, 11 pages
9. Supreme Court orders & correspondence; 20 pages
10. Briefs, excerpted, county clerk's stamp; unstamped, unrecorded-Jan.1976; 7 pages
11. Defendant's EBT correspondence,order,replies,March,1976;8 pages
12. Repeated verifications; different forms: April, 1976 2 pages
13. Outline summary; 2 pages
14. Correspondence, orders, Feb., March, April, 1976: brief; 7 pages
15. Orders, court of Seymour Schwartz; January, - April, 1976 7 pages
16. Orders, courtsof Bernard Weiss; Charles Whitman; March-April, 1976; 3 pages
17. Correspondence, Judge Edward Thompson; documents; April,1976; 3 pages
18. Correspondence, Judge George Postel; Nov.,1975-June, 1976; 11 pages
19. Order; Judge Charles Tierney; 1 page
20. Correspondenc; Chief Clerk of Civil Court; July, 1976; 1 page
21. Correspondence; Grievance Comm.,Bar Association; Dec.1975;Jan.Sept.1976 4 pages
22. Correspondence; Court Administration; July,1975; June, 1976; 4 pages
23. Correspondence; State Comm.Judicial Conduct; May, Nov., 1976; 2 pages
24. Correspondence; Judge Walter Shackman; May, 1976; 1 page
25. Appellate Term & Division; orders, denials-appeals; April, 1975; Jan. 1977 9 pages
26. Correspondence, Judge Edward Thompson; re:App.Div.Appeal; 1 page
27. Briefs, correspondence; Appel.Div. May, 1976; 10 pages

(3A)

NEW YORK STATE SUPREME COURT, County of New York
Special Term, Part II, Room 315
60 Centre Street, New York, New York 10007

MILLICENT LINDEN,

Plaintiff-Petitioner,

-against-

NATHAN NOVICK, D.C.,

Defendant.

SHOW CAUSE

S I R S :

Defendant inflicted severe and serious injury upon plaintiff's person in his office, willfully, maliciously with deliberate intent to maim. These allegations are borne out in defendant's own words with conclusive proof in the evidence of court minutes transcripts; said transcripts, in excerpt, (copies) are annexed herein.

Following are some few examples citing the facts of defendant's own words of the charges:

1. Defendant states e suspects a fracture - Page 44, Aug. 15;
2. Defendant admits that standard procedure is to order X-rays - Page 42, Aug. 15 -
3. Defendant admiss that he did not order X-rays-Page 58,Aug.1
4. Defendant acknowledges that standard procedure is to not move site of fracture, then admits making a test calling for considerable motion on stated site of feacture-p.42,Aug.
5. Defendant describes forces in motion to cause a fracture, p. 53, Aug. 15, then states his suspiction of fracture from sitting position without any forces in motion;
6. Defendant states his diagnosis for a rotated right scroiliac page 60, Aug. 15, and treatment for same, p. 57, then describes doing a test for imflammatory hip disease,p.42
7. Defendant admits to plaintiff's above average vitality while treating subluxation of cervical vertebrae, p. 38, then states that plaintiff's professiona calling for much physica action and vitality could not be done with any hip disease;

These and other undeniable facts, revealed in direct contradictions & open admissions, appear consistently throughout the entire testimony. The original charge had been for negligence; the evidence shows with any dobut whatever that defendant did deliberately with malice and intent to main severely & seriously plaintiff by twisting and mis-aligning plaintiff's pelvis with an improperly executed unwarranted test, and these facts by defendant's own open admissions constitute new evidence to support plaintiff's

Plaintiff,

-against-

NATHAN NOVICK,

Defendant.

: COMPLAINT

Plaintiff charges the Defendant with:

MALICIOUS & WILLFUL MISCONDUCT WITH INTENT TO MAIM

Plaintiff was treated by defendant for cervical subluxation for a period of one year, averaging three times weekly; during that time plaintiff performed professional duties which called for physical actions and healthful vitality.

Defendant performed a test for inflammatory hip disease where there was no evidence of such disease; defendant's knowledge, skill, and experience were used as weapons to perform that test so as to maliciously, deliberately, willfully mis-align the plaintiff's pelvis severely, causing serious consequences.

Defendant refused to treat what he had done consistently, despite plaintiff's pleadings to be helped, defendant had the skill to treat plaintiff while in a state of emergency, before time and attrition cumulative effects compounded the physical injury and harm he had done, but he constantly refused to treat plaintiff though he saw the ravaging effects of his deliberate and malicious act, an act which he undertook without announcing or informing plaintiff of his intention of doing so; defendant continued the maiming act while plaintiff cried out that it did not feel right and hurt., responding that he know it didn't feel right and that it hurt; said act was a complete deviation of the year's routine treatment, unwarranted and premeditated with malice aforethought.

(36)

JULY 28, 1975

MEMO ENDORSEMENT

JUDGE DUFFY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

- v -

DAVID FOX and SAMUEL GRAFF

---

76 Civ. 4403

Judge Duffy

NOTICE OF MOTION

U.S. DISTRICT COURT FILED DEC 17 1976 S. D. OF N. Y.

Dear Sir:

PLEASE TAKE NOTICE, that upon the annexed affidavit of plaintiff, Millicent Linden, duly sworn to on the14th day of December, 1976, and upon all of the pleadings and proceedings heretofore had, the undersigned will move this Court in the United States Courthouse, Foley Square, Borough of Manhattan, City & State of New York, on December 24, 1976 at 2:15 p.m. of that day or as soon thereafter as plaintiff can be heard, for oral argument for speedy trial on the basis of the existence of an emergency situation precipttated by the defendants' illegal actions against plaintiff in the course pre-trial proceedings of plaintiff's suit denying plaintiff fundamental Constitutional rights wherein defendants, under the guise of protecting their client in the malpractice action involving severe and serious injury, usurped plaintiff's time from October 1975/Supeme Court motions and Civil Court presentation of said motion not ruled on by that court to strike plaintiff's action from the calendar, thus undly delaying what consequences of relief from said trial by jury against the malpractice suit to this date, December, 1976, when the treating doctor for 3 years has announced that he will no longer treat without payment as of December 22, 1976 and plaintiff is in DIRE NEED of continuing treatments without which plaintiff cannot hope to have any degree of adjustment to the injured pelvis which works like the foundation of the building that crumbles when it is rendered crooked and defendants ignored criminally hospital &medical records documenting said facts. Your

Dated: December 14, 1976

To: EVANS, ORR, DACELLI, NORTON & LAFFAN, P.C.
15 Park Row, New York, N.Y. 10038

Millicent

EMERGENCY MOTION BY PLAINTIFF

DATED: DECEMBER 14, 1976

RULED ON FEBRUARY 28, 1977 BY JUDGE DUFFY

(11)

(319)

Millicent Linden 500 East 74th Street New York, New York 10021

The Honorable Kevin J. Duffy
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
40 Centre Street Foley Square
New York, New York 10007

Dear Sir: December 29, 1976

It is fervently hoped that this court will lend his understanding to the circumstances at issue onee they are unraveled, and to this end, the writer takes the liberty of presenting just some outline facts, broadly, to further support the facts already entered in the briefs and in the possession of the opposition.

Plaintiff is in dire apprehension from several perspectives, the most serious ones being those of the jeppardy to life, and the jeopardy to Constitutional rights which have left their indelible mark upon plaintiff in the course of havingto contend with gross illegal practices by defending attorneys in the midst of gross pro se prejudices, plainly documented in the records.

The reason plaintiff has requested oral argument especially for the current motion for a speedy trial on an emergency basis is to show this court in physical actuality what is meant by the "thickened" bone from a childhood disease, long adapted to a vital, energietic, physically active life, proven by earning a living dancing, singing, demonstrating an original program based on physical activity of a profound and unprecedented nature, and its pertinent facts upon the present request that puts life itself in jeopary.

The motion brief contains a page from the medical text from the NEW YORK ACADEMY OF MEDICINE, describing the architecture of the bone and the results of the effects in healing, its "thickening"; attached to this writing is a picture of the active, physical body form as plaintiff was teaching dancing to the cadets at West Point and as reported in the Washington, D.C. EVENING STAR.

In oral argument, plaintiff would show the X-rays showing the displacement of the basic structure when the defendant-dcotor in plaintiff's suit against him for his openly confessed deliberate act of severely misaligning the pelvis, fully transcribed in the record.

In oral argument, plaintiff can show the physical evidence of the "thickened" bone, the X-rays, and plaintiff's original program, TENSION-in-REPOSE that deals with unprecedented inner equilibrium, how affected by the recent fact that the speciall treatments required are no longer accessible, because of three years unpaid treatments, and that without those treatments, the heavier, "thickened" bone, creating weight discrepancy, keeps the unstable, misaligned pelvis from moving towards its normal, proper position, thus, making movement towards balance also inaccessible, and without balance, life forces wane and weaken in decderation; what can go wrong, does.

In the most literal sense, the pleading is for struggle for life itself, and plaintiff believes warrants this court's granting oral argument.

(3 7)

DISTRICT COURT
FILED
FEB 28 1977
S. D. OF N. Y.

MILLICENT LINDEN v. DAVID FOX and SAMUEL GRAFF

ENDORSEMENT

76 Civ 4403

Plaintiff's motion for an immediate "emergency trial" is denied. Although the court is cognizant of the plaintiff's desire for a rapid resolution of the issues in order to secure what she alleges is a much needed recovery, the defendants are entitled to a reasonable period of time in which to complete discovery and, thus, prepare themselves for trial. Hickman v. Taylor, 329 U.S. 495, 500 (1947). Defendants contend that they require four to six weeks in which to complete discovery; under the circumstances this seems a reasonable period of time.

Plaintiff's motion for an immediate trial is denied. Defendants have 45 days from the filing of this order in which to complete discovery.

SO ORDERED.

United States District Judge

Dated: New York, New York
February 28, 1977

FILED
FEB 28 1977

EMERGENCY MOTION BY PLAINTIFF: DECEMBER 14, 1976
DECISION BY JUDGE DUFFY: FEBRUARY 28, 1977

37

Millicent Linden 500 East 74th Street New York, New York 10021

The Honorable Kevin J. Duffy
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
40 Centre Street, New York, N.Y. 10007

(LINDEN v. FOX & GRAFF [illegible])

Dear Judge Duffy. January 15, 1977

Transmitting, the writer and plaintiff in the above-titled action, called to inquire if expected procedures had been met by plaintiff to date and to extend some further facts. Plaintiff wishes to express speciall appreciation to this court's assistant, Ms. Somers, for her patience in these trying times for plaintiff, and for her stating that plaintiff may write again to this court.

Defendant's opposition to plaintiff's motion for a speedy trial demanded "physical & mental" examination, citing Rule 26 (Federal). Said rule, plaintiff has learned states that such examinations are demanded when those issues, "physical and mental" are incontention.

Plaintiff wishes to re-state more directly with relevance to said rule cited by defense that plaintiff's motion for a speedy trial would logically oblige a reason for it, and that reason was the emergency condition of plaintiff's health due to the withdrawal of treatments of 3 years standing by the treating doctor, who is unique in his effectiveness where plaintiff could find no other to help.

However, plaintiff's health that was life-threatening by the doctor who inflicted the injury 3 years ago deliberately for professional contentions, explained in earlier briefs, is not the issue in the instant action in the above-titled case, therefore, defense has no grounds for demanding said examinations.

Annexed to this letter is a copy of the docket sheet in the court records clearly and plainly stating that the instant issues are a "VIOLATION OF CIVIL RIGHTS ACT" and not a medical malpractice.

As soon as plaintiff is physically able to do so, plaintiff intends to submit INTERROGATORIES to defense as defense submittted to plaintiff based on the facts found in the original court record of the action against defendant-doctor in which wherein the defendants in the instant action representing the doctor did wallfully and unlawfully violate plaintiff's rights under the Constitution, and the said facts are fully documented in the records, fully supporting plaintiff's contentions.

Plaintiff's motion for a speedy trial was compelled by the unexpected announcement of stopping treatments; without them, plaintiff's physical conditions deteriorated rapidly. Plaintiff had to "sit on the doctor's doorsteip, so to speak, when the danger to life became more immenent and apparent, and the doctor's professional observation caused him to relent temporarily to the extent of one treatment per week where plaintiff had 3 to 4 per week for 3 years pending this court's decision on plaintiff's motion for a speedy trial.

The unstable, shifting pelvis due to the said injury is a threat to life without constant attention to righting it, as any foundation works to crumble if not righted. While plaintiff appreciates this court's procedures and demands on its time & busy schedule, it is also out

	YR.	NUMBER	MO.	DAY	YEAR					23	$	OTHER	NUMBER	DEM.	YR.	NUMBER
208-01	76	4403	10	05	76	3	440	1					0860		76	4403

PLAINTIFFS	DEFENDANTS
LINDEN, MALLICENT	FOX, DAVID GRAFF, SAMUEL

DUFFY, J

VIOLATION OF CIVIL RIGHTS ACT

CAUSE

LINDEN

ATTORNEYS	
Millicent Linden PRO SE 500 East 74th St. New York, N.Y. 10021 (BU 8-9453)	Evans, Orr, Pacelli, Norton & Laff 15 Park Row New York, New York 10038 267-1800 (for defts)

☐ CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	DATE	FILING FEES PAID RECEIPT NUMBER	C.D. NUMBER	STATISTICAL CARDS CARD JS-5 X JS-6
	OCT 5 1976	FEE		DATE MAILE

Index No. 76 Civ. 4403

Judge Kevin Duffy

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

- v -

DAVID FOX & SAMUEL GRAFF

NOTICE OF MOTION & AFFIDAVIT

Millicent Linden
Plaintiff, Pro Se
500 East 74th Street
New York, New York 10021
838-9453

ENDORSEMENT

Since the complaint has been dismissed, the within motion is denied as moot.

So ORDERED.

USDJ

NY NY
March 11 1977.

U.S. DISTRICT COURT
FILED
MAR 11 1977
S.D. OF N.Y.

MEMOENDORSED

JUDGE DUFFY

U.S. DISTRICT COURT FILED MAR 8 1977 S.D. OF N.Y.

18

UNITED STATES DIRSTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

- v -

DAVID FOX & SAMUEL GRAFF,

Defednants.

76 Civ. 4403

Judge Kevin Duffy

NOTICE OF MOTION

S I R S :

PLEASE TAKE NOTICE, that upon the annexed affidavit of Millicent Linden, plaintiff, pro se, and upon all of the pleadings and proceedings heretofore had herein, the plaintiff will move this Court at Room 905 in the United States Courthouse, Foley Square, Manhattn, New York, on March 17, 1977, at 2:15 p.m. of that day, or as soon thereafter as plaintiff can be heard, for an order to hold defendants' demanded deposition in the Federal Courthouse instead of defendant's officsat 15 Park Row, to limit the time to that day, and the demanded materials relevant to the issues now in the original record in full possession by defendants for the reasons that defense may arbitrarily claim "incompletion" subjectively wihount warrant, and its demand "..until the same is completed.." to further distress plaintiff physically with needless, hardship travel downtown, and to demand to "..produce all relevant books, records and papers.." which are too heavy for plaintiff's physical condition, submitted piece by piece with time to have to carry all at once when they have already been duplicated in part and in full to both court and defense, while defense has already complained of the volume and is in full knowledge of plaintiff's physical limitations, documented in the reocrds from hospital and medical reports, and for further reasons of a special nature contained in the annexed affidavit by plaintiff.

Dated: March 7, 1977, New York, N.Y.

To: EVANS, ORR, PACELLI, NORTON & LAFFAN, PC.
51 Park Row, New York, N.Y. 10038

Yours, etc.
Millicent Linden
500 East 74th St.
New YOrk, NY 10021

37

Litheon Linden [illegible] East 84th Street [illegible], New York 10028

UNITED STATES DISTRICT COURT JUDGE IRVIN DUFFY
SOUTHERN DISTRICT OF NEW YORK
40 Centre Street, Foley Square,
New York, New York 10007

March 28, 1977

Dear Judge Duffy:

In the matter of LINDEN v. FOX & GRAFF, 76 Civ. 1203, this Court has plaintiff's motion for Re-argument in this court's dismissal of plaintiff's suit, and, in the alternative, Leave to Appeal in Forma Pauperis, for the returnable date of March 28, 1977.

Plaintiff is mindful of the event of plaintiff's motion in December, 1976 for a speedy trial based on the medical facts of an emergency when treatments were stopped due to overdue payment for those treatments for three years, and that, despite the conditions of emergency that necessitated said appeal to this Court, no decision or ruling was ever received until plaintiff called this office the first of March, 1977 and was told by the law clerk that a ruling had been entered on February 28, 1977. Though no notice of said order has to this date ever been received, plaintiff did get a notice of this Court's written opinion in the court order to dismiss plaintiff's suit against defendant-attorneys, Fox and Graff, within two days of the stamped date on the order.

For three months the emergency conditions brought no reply from this Court of any kind at any time; had the doctor not relented upon seeing the serious threat to life itself without the treatments, plaintiff could not have managed anything at all.

With these facts in mind, and the obvious one that without the long overdue fees for professional services that are literally vital to life, it cannot be determined whether or not a repeat pattern of withholding treatments may not yet again prevail.

Under these circumstances, plaintiff feels that there is well-founded justification to ask this Court to consider rendering an early decision for the March 28th motion, to either re-instate the action or grant leave to appeal in forma pauperis.

It is hoped that this Court agrees that an individual has the right to extend viable efforts in the struggle to preserve and protect life. It is a first law of life, a biological fact at large; to preserve and protect life; without that there would be no need for any mind-made laws of the land, which is also professed to preserve and protect life.

As this Court has denied plaintiff every motion, default judgement, speedy trial for emergency conditions, and the March 17th motion to hold defendant's deposition in Federal Courthouse rather than their offices stated as "moot" with receipt of this Court's dismissal of the case the day before it, and as this Court never responded to plaintiff's several letters requesting communication of the status and explaining the medical findings justifying the emergency, and as defendants' considerations have taken precedence over plaintiff's dire struggle for life itself. Being members of the Bar Association, plaintiff can only think of making this request from just human consideration to avoid another possible 3-month

(37)

76 Civ. 4403

Judge Kevin Duffy

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

-against-

DAVID FOX and SAMUEL GRAFF,

Defendants.

RE-ARGUMENT & SUPPLEMENT

Millicent Linden
Plaintiff, pro se
500 East 74th Street
New York, New York 10021
BH.8-9453

ENDORSEMENT

The within motion to reargue is granted. On reconsideration I adhere to my original decision.

IT IS SO ORDERED

U.S.D.J.

NY NY
March 25, 1977

U. S. DISTRICT COURT
FILED
MAR 25 1977
S. D. OF N. Y.

MEMO ENDORSED JUDGE DUFFY (25)

U.S. DISTRICT COURT FILED MAR 22 1977 S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEWYORK

----------X

MILLICENT LINDEN,

Plaintiff,

- v -

DAVID FOX and SAMUEL GRAFF,

Defendants.

----------X

MEMO. ENDORSED
76 CIV. 1403
Judge Kevib Duffy

RE-ARGUMENT and SUPPREMENT

STATE OF NEW YORK)
COUNTY OF NEW YORK) S.S.:

Dear Sir:

Motion before this Court for the returnable date of March 28 1977 by plaintiff sent March 17, 1977 requests leave to appeal this Court's order signed March 11, 1977 in forma pauperis.

Plaintiff submits this brief in reargument of said order and in supplement to the aforesaid motion by plaintiff.

Statements in this Court's written opinion of the order dated March 11, 1977 indicate a possible misunderstanding of plaintiff's briefs. Accordingly, plaintiff wishes to clarify those factors read in the order plaintiff meant to be conveyed in briefs so as to conform with the issues in the complaint and the judgement by this Court, with the matter of appeal being subject to restoration of plaintiff's case against defendants in the event of reconsideration of the judgement based on said clarifications; in the event of no change in judgement, then the matter of the appeal to remain as it stands.for March 28, 1977.

A first matter is plaintiff's wish to express appreciation to thes Court for its statement that reads: "A most generous reading of the complaint..". Plaintiff's impression of this phrase is that plaintiff's briefs have been voluminous and required much of this Court's time in the reading to elicit the words, "A most generous reading.." The only justification plaintiff can offer this Court if

Sir :

Please take notice that the within is a true copy of a .....
duly made and entered in the within entitled .....and filed in the office of the Clerk of .....
on the.....day of....., 19 -

Dated.....19

Yours, &c.,

EVANS, ORR, PACELLI, NORTON & LAFFAN, P.C.

Attorneys for.....
Office and Post Office Address

15 PARK ROW
Borough of Manhattan New York, N. Y. 10038

To ..... Esq.,

Attorney for .....

Sir :

Please take notice that an order of which the within is a true copy will be presented for settlement and entry herein to Mr. Justice .....
at ..... of this Court at.....
.....in the City of.....
on the.....day of....., 19
at o'clock in the forenoon.

Dated.....19

Yours, &c.,

EVANS, ORR, PACELLI, NORTON & LAFFAN, P.C.

Attorneys for.....
Office and Post Office Address

15 PARK ROW
Borough of Manhattan New York, N. Y. 10038

To ..... Esq.,

Attorney for .....

Index No..... Year.....

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

- against -

DAVID FOX and SAMUEL GRAFF,

Defendants.

NOTICE OF MOTION & AFFIDAVIT

EVANS, ORR, PACELLI, NORTON & LAFFAN P.C.

Attorneys for Defendants
Office and Post Office Address

15 PARK ROW
Borough of Manhattan New York, N. Y. 10038
Tel. 267-1800

To ..... Esq.,

Attorney for .....

Due and timely service of a copy of the within .....
is hereby admitted
Dated, New York,.....19.....

.....

Attorney for .....

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ENDORSEMENT

The within motion is denied as moot since the complaint has been dismissed

It is so ordered

USDJ

NY NY
March 5, 1977

U.S. DISTRICT COURT
FILED
MAR 25 1977
S. D. OF N.Y.

JUDGE DUFFY

MEMO. ENDORSED-

U.S. DISTRICT COURT FILED MAR 15 1977 S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

- against -

DAVID FOX and SAMUEL GRAFF,

Defendants.

CROSS NOTICE OF MOTION

Judge Kevin Duffy

76 Civ. 4403

S I R S :

PLEASE TAKE NOTICE, that upon the annexed affidavit of SEYMOUR I. YANOFSKY, duly sworn to the 11th day of March, 1977, and upon plaintiff's demand for interrogatories, the undersigned will cross-move this Court at Room 905 in the United States Courthouse, Foley Square, Manhattan, New York, on March 17, 1977 at 2:15 P.M. of that day or as soon thereafter as defendants can be heard, for an order to strike and vacate plaintiff's demand for interrogatories on the grounds that same are burdensome and unreasonably complex and not material to the present lawsuit, and as such, a protective order should be issued vacating and striking plaintiff's and compelling plaintiff, in place of issuing a demand for interrogatories, to proceed by oral deposition, and for such other and further relief as the Court deems just and proper.

Dated: New York, New York
March 10, 1977

ENDORSEMENT

Motion granted
Kevin Thomas Duffy
USDJ

76 Civ. 4403

Judge Kevin Duffy

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---

28 MARCH 1977
NY NY

MILLICENT LINDEN,

Plaintiff,

- v -

DAVID FOX and SAMUEL GRAFF,

Defendants.

U. S. DISTRICT COURT
FILED
MAR 31 1977
S. D. OF N. Y.

MICROFILM

MOTION - LEAVE TO APPEL IN
FORMA PAUPERIS
AFFIDAVIT

Millicent LInden
500 East 74th Street
New York, N.Y. 10021

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Done //

MEMO ENDORSED

MEMO. ENDORSED

(24)

U. S. DISTRICT COURT
FILED
MAR 21 1977
S. D. OF N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

MILLICENT LINDEN,

Plaintiff,

- v -

DAVID FOX and SAMUEL GRAFF,

Defednants.

76 Civ. 4403

Judge Kevin Duffy

NOTION
LEAVE TO APPEAL IN
FORMA PAUPERIS
AFFIDAVIT

----------X

Dear Sir: STATE OF NEW YORK) SS:
COUNTY OF NEW YORK)

Order from this Court dismissed plaintiff's complaint, stating: "..the complaint fails to reveal the existence of a Federal cause of action; and since the complaint states that all parties are residents of New York diversity of citizenship is lacking." The order is dated March 11, 1977, and received by plaintiff March 16,1977.

Plaintiff respectfully asks this Court leave to appeal the aforesaid order to the COURT OF APPEALS FOR THE SECOND CIRCUIT.

Retrunable date: March 28, 1977

The cause is just and the facts fully documented in all original records in the STATE COURT OF THE NEW YORK SUPREME COURT and the CIVIL COURT OF THE CITY OF NEW YORK.

This court, in the statement of ENDORSEMENT, notes the following: "Plaintiff brings this action, apparently pursuant to 42 U.S.C. #1983, claiming that the actions of defendants in representing her adversary in state court violated her constitution rights and cause here 'severe distress and anquish'. The actions complained of were such as would be readily apparent on the facts of the state court record and would be issues to be raised on appeal, a course which plaintiff has unsuccessfully purused inthe state appellate system

Plaintiff's action in Federal Court was precisely for the above

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sold out

Sun., Mar. 20, 1966

Today The Journal-American presents the first in a series of articles from Millicent Linden's new book, "Tension in Repose." In it she offers her theory of converting the body's natural tension into energy. So . . .

Tension - in - Repose

The Gravity-Defying Inner Lift That Keeps You Naturally Radiant

By MILLICENT LINDEN

BEFORE WE TREAT tension like an unwelcome guest, we ought to understand some of its basic purposes first. Only through understanding the meaning and function of tension can we deal with it both appreciatively and effectively.

Tension is natural: the quiet tension of sleep; the tension of daily routine; and even the tension felt under great stress and strain. Excessive tension is the normal reaction to provocation and frustration added to the already constant stream of trivial irritants in life.

Think of the rhythm of the four seasons. It seems so natural to start with the Spring of the year when everything bursts into life, into movement which starts from beneath the surface of the earth. The plants push their way through the earth to supply life-giving food for the body and food for the soul from the fragrance and beauty of the blossoms and flowers.

In Summer, the plants of life continue to grow; movement is accelerated to ready the crops for Autumn. The plants to be picked and enjoyed will be used to sustain life for people and to be stored for the Winter.

Winter is a time of rest which permits the earth to replace the energy she used up in making the plants come to life. Then it can begin again, in the Spring, new and refreshed.

TO SEE the rhythmic pattern of another branch of life which literally surrounds us, we look at the twenty-four-hour cycle of our daily lives.

When you awaken, whether with a smooth, easy and delicious awakening or a groggy beginning, you are about to start a twenty-four-hour rhythm and pattern of movement and rest.

While you were sleeping, your body was putting back the energies you used up the day before. In the unconscious state of sleep, your heart kept beating, and your blood kept moving, circulating throughout your entire body. Although you are unaware of this in the unconscious state, the tension of life keeps everything within you moving.

But awake, you begin to move with a conscious tension. You begin your day's actions. Off you go to "battle the dragon," to work, that is, so you can buy food and provide clothing and shelter to withstand the elements.

Modern dangers confront us, and so we become tense from the daily threats to our safety, well-being, happiness and self-esteem. Threats like illness, accidents, violence, economic anxieties, job problems and domestic relations. Tension, an essential function of living, just as hunger and thirst are, keeps us constantly straining at the bit all day long. Until, finally, we know we MUST relax.

As a climax to the working day, you try to plan some kind of enjoyable activity and/or leisurely dinner. The shift of activity from one type to another, such as from work to play, provides a sense of relief, a discharge from the one movement into another.

To be able to rest as you move is to put back your energy as you use it. In such a system, tension and repose would then become "tension-in-repose."

With "tension-in-repose," we would have a true balance of movement and rest which would absorb your normal and excess tensions into a dynamic whole. Each cycle of movement and rest would be complete, and you would be more likely to return to the starting point of total rest instead of beginning each day with some of yesterday's fatigue still lingering.

THE CLUES for this new rhythmic cycle of movement and rest, of tension-in-repose, for the human body have been taken from the most basic fundamentals of the sciences of physics, geometry, engineering and physiology, all of which are nothing more than the discoveries of some of nature's consistent, universal principles.

If you happen to think that this will result in mere cold dogma, be patient and let this writer help you demonstrate for yourself the exciting romance which is the rationale of the universe and which is exemplified and latent within you—in your entire being.

Within you and within every living organism in the universe are individual resources and reserves of energy. There is no excitement to compare with the tapping of these reserves and sources of energy, which are now unused, unseen and unfelt. The moment you begin to apply some of the particular fundamental principles of the various sciences to your body, you will begin to use your untapped inner and deeper resources of life.

The dividends are many. When you find you are enjoying relaxed-motion, a trimmed waistline, a flattened abdomen, resilient and flexible muscles, deeper breathing, sounder sleep, an automatic, built-in regulator for your appetite, improved circulation, a higher tolerance of life's constant and excessive irritations, freedom from boredom, relief from overstain, improved coordination in all physical movements, including sexual activity and more erect, posture with the sense of weightlessness, then you will be able to say "feeling is believing."

LEARNING TO GO WITH THE TIDE is learning the secret of tension and repose. Walk along the beach and watch the perfect timing and rhythm of the sea and realize that much can be learned from nature.

NATURE captures the imagination with her splendor and the reason with her simplicity. Everyone marvels at how exciting it is each time we discover a cherished secret. But the real wonder is not so much in knowing nature's simple, logical workings, but in the fact that over so many centuries intelligent people have continually advocated contrived movements which obviously cause serious injury, despite the always available form of natural movement which does not cause damage to the body at any time.

Could reasoning powers themselves be responsible for this oversight? All creatures who have not the gift of reason are simply obliged to react naturally to their physiological needs. An inherent quality in all animals is the daily need to fully stretch each part of the whole body after each resting period.

Notice how any animal—cat, dog, bird—will not move after awakening or resting until he has stretched every part of his body. Unhampered by conscious thought, he comes alive with pleasure and enjoyment as he instinctively s-t-r-e-t-c-h-e-s himself to the nth degree, moving to the full extent his body will permit comfortably. He does it slowly, gently, lovingly and smoothly, relishing every glorious, luxurious second of it.

Stretching must be made as simple for man as it is for the animal. From the animal we learn that the ACT of stretching is natural movement. It does not exhaust them, it refreshes and strengthens the muscles.

FROM MEDICINE and physiology, we learn that the inherent quality of the muscles is stretching. To stretch is to create a continuous line, length or distance; it is the drawing out of the muscles to full length or width; hence to draw tight or tighten the muscles. You have only to stretch a rubber band to see the physical changes in the rubber; to see it tighten in the middle and spring back into place when released. Stretching muscles in living creatures contract in the middle, tightening the fiber as the whole muscle moves far and wide all around its center.

The stretching animal extends his muscles to their full length and tightens them at the same time, keeping them firm and taut while at the same time eliminating any possible danger to his well-being.

People do have a natural tendency to stretch upon arising in the morning or after prolonged sitting or resting, but it must be remembered that man cannot mimic the animal's act of stretching nor get as much out of it. The anatomical construction of the quadruped and the biped, the animal and man, are different. Man must contend with his imperfect spine while the animal's rests comfortably across four pillars providing sound engineering principles.

When the human being stretches "naturally," he is bending backward at exactly that part of the spine in the lower back which is the weak link in the chain of vertebrae.

There is a paradox present here. Despite the fact that the human spine has an imperfection and that the animal's is based on sound engineering principles, the nearer the animal's bones approximate the proportions of human construction, the more flexibility of movement the animal is capable of. There is an invitation in this fact to encourage and enhance man's inherent and unguessed at potential of power of movement.

(From the book "Tension in Repose," published by Fawcett Publications, Inc. Copyright, 1966, by Millicent Linden.)

NEXT SUNDAY: Get Started With the ~~Exercises~~ STRETCHES

Your Body's Own Way to Welcome & Resolve Tensions

DR. ETHAN ALLAN BROWN *M. R. C. S. England. L. R. C. P. London*

75 BAY STATE ROAD • BOSTON, MASSACHUSETTS 02215 • TELEPHONE: 266-3626

December 5, 1967

Miss Millicent Linden,
Director
Tension-In-Repose
500 East 74th St.
New York, N.Y. 10021

Dear Miss Linden:

I was most interested in the two books you forwarded to me and the other literature.

I publish the ASTHMATIC PATIENT which is available on subscription and without charge to my patients who suffer from asthma, some of whom smoke. For this and various other reasons, I would like permission to publish the exercises used in the New York Hospital, beginning with the Row Boat and ending with the Slow, Side Arc. Full credit would, of course, be given and attention drawn to your book, Tension-In-Repose.

The ASTHMATIC PATIENT operates at a deficit, but if a fee is necessary I am sure one can be found if it is within reasonable bounds.

I would also like to use some of the exercises, beginning with the Embryo and ending with Walk-In-Space which includes some of those in the previous ten, but I doubt that my Boston-based patients will accept titles as the Rest-Love Stretch although there is no doubt that it is the best title you could have given to this particular exercise. Once again, I agree with the exact terms you have used, but the ASTHMATIC PATIENT goes to youngsters some of whom are bound to misunderstand your exact vocabulary.

It seems to me that the exercises would be just as effective for them if several of the phrases characterizing the reflexes were to be omitted. I personally have done almost all the exercises and find them exactly as you have described them. Please list me as one of your supporters and admirers.

Sincerely yours,

Ethan Allan Brown

Dr. Ethan Allan Brown

EAB/df
Enc.

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ALAN G. SNART, M. D.
342 EAST 67TH ST.
NEW YORK, N. Y. 10021
YUKON 8-6000

March 18, 1968

Miss Millicent Linden
500 East 74 Street
New York, New York 10021

Dear Miss Linden:

Thank you for your letter and I am sorry that the grant for the Anti-Smoking Clinic has expired.

Of course, I have been doing some thinking about Tension in Repose and I am delighted that you are now coming out with a hard cover version. As you are well aware, I have taken an active interest in what you have expounded since I first saw the book at the end of 1966. I have also talked to you on several occasions about my feelings of the place your stretches can play in helping some of our sick patients. The principle of the stretch, avoiding as it does active exercise is, I think, ideal for patients with certain vascular diseases, such as peripheral arteriosclerosis; and lung diseases which involve reduced blood oxygen retention, notably emphysema. I can not be as authoritative on orthopedic conditions. You have been of great help to certain patients of mine and they have expressed their gratitude. Although I have always thought of these stretches in terms of helping the diseased body, I am well aware they are basically designed for the healthy individual and I can not help but think that any healthy person would benefit by them.

Best regards to you in your new venture.

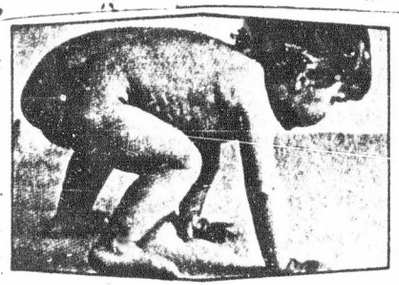
Very sincerely,

Alan Snart

AGS:kb

Tension - in - Repose

Tension - in - Repose



500 EAST 74TH STREET . NEW YORK, N. Y. 10021

MILLICENT LINDEN, DIRECTOR

GET OFF YOUR FEET !

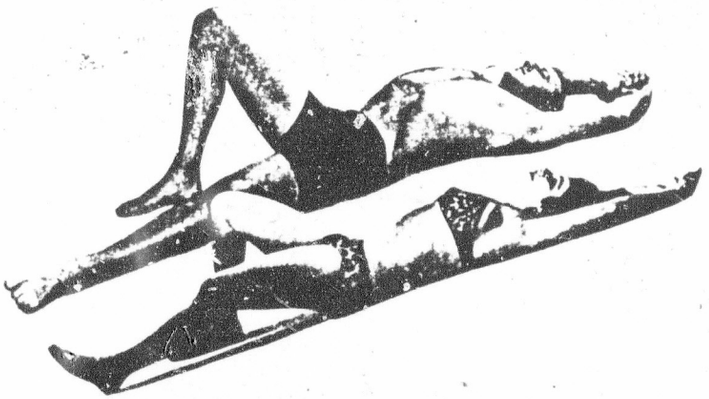
Get an actual, physical lift, literally in your whole body. This is the way to do it - through the natural forces inside your entire body and all around you - the bridge-like, even distribution of your weight that eases strain & makes you feel LIGHT & BUOYANT !

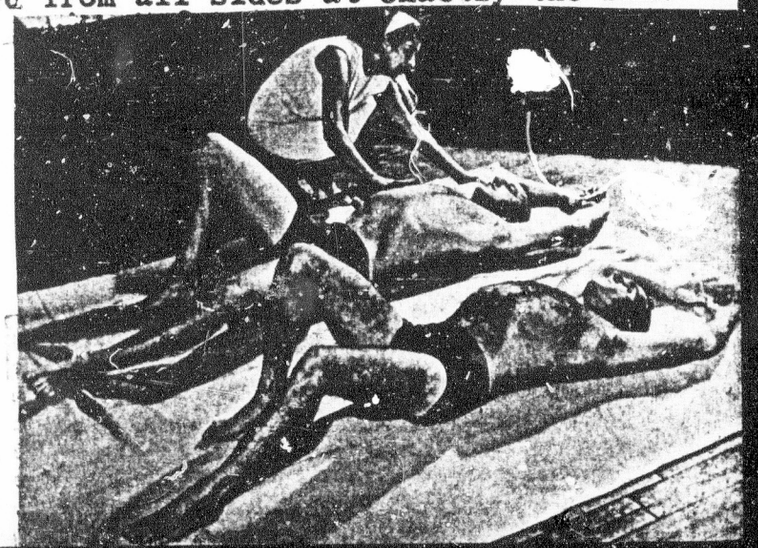
ALL LIFT STEMS FROM THE CONCAVE CURVE &

ALL HEAVY BODIES DESIRE TO LOSE THEIR HEAVINESS; all & any amount of weight is heavy when it is under strain. Not only do you need to be buoyant, you also want to FEEL light. It is a universal desire. Buoyancy is true body balance; balance is strength, vitality, power and pleasure - the pleasure smooths out the frazzles from both normal & excess tensions, leaving the pleasure in the relaxation:

TENSION-in-REPOSE !

Tension-in-Repose is the natural science seen as routine, daily indulgence by all babies & animals now adapted for human adults. It is a series of varied patterns of the biological act of stretching within the fundamental design of the concave curve, arching the spine in the concave curve and then extending in opposite directions simultaneously, reaching outward from all sides at exactly the same time as you see in the examples here above and below.





Tension - in - Repose

500 East 74th Street, New York, New York 10021 MILLICENT LINDEN, DIRECTOR

Tension-in-Repose is consistent, that is, it does the same work for everyone without exceptions: Tension-in-Repose makes you move freely, easily, pleasurably; it relaxes all your tensions and dissipates the feelings of frustration - naturally, with nothing more than the forces of life itself in your inner body; it gives you instant refreshment from fatigue wherever it may come from; it makes you taste once again the sweet baby-like slumber whether or not you are an insomniac; it relieves the stress of boredom and displaces unwanted habits, such as compulsions of addictions to anything; it eases chronic backaches or headaches; the inner satisfaction of Tension-in-Repose satisfies like satiation and you get an automatic appetite regulator whatever you eat as long as it is a varied, healthy diet; the even distribution of the body weight gives a slim-full figure with proportion and symmetry; your posture rises involuntarily, straighter and stronger, all your vitality is enhanced in all physical activities in the new, buoyant body balance and you regain lost height; you feel the dynamic circulation feed your brain with its oxygen-hungry consumption. It's logical to expect these effects, for when one force goes right, it affects and influences all the others that inter-act and inter-react with them.

These are the consistent effects reported by Tension-in-Repose performers. A pilot study on Tension-in-Repose at the American Health Foundation on 11 subject-pupils in a 3-week period recently completed with medical documentation reports the following effects: one blood pressure reading before the study was 124/96 R., 120/86 L.; during the study: 116/88, 114/80; at the end of the study: 118/76, 118/78. The subject, about 30 years old, had a 30-point difference between right and left arm readings, a 10-point difference in 7 months of medication, and a 2-point difference in 3 weeks of Tension-in-Repose, bringing the bottom figure, the important one, down from 96 to 76. Another had a cholesterol count of 193 before the study, and it went down to 177 at the end of it, the first time "to a level where it's never been", "it always tended to be on the high side". There was no change of diet during the study. Another had the dimensions of a 40-inch bust, 35-inch waist, and 44-inch hips before the study; two-days after she began, the measurements read: 40, 33-43, and did not ever go back to the first figures. Another noticed an imperceptible decrease in the number of cigarettes smoked. Everyone reported better sleep, instant refreshment from fatigue, relaxed tensions, better posture - 2 with back problems noted relief from the aches - lightness in body weight - one lost nine pounds - "bounce" in walking, greater vitality and greater ease in movements. All with pleasure of performance.

The TENSION-in-REPOSE HOME SERIES COURSE contains the first fundamentals of the T-in-R series: The Quadruped, The Slow, Side-Arc & the Rest-Bove Stretch. Send 4.95 to Tension-in-Repose, 500 East 74th Street, New York, New York 10021. Class and private lessons scheduled by appointments; the beginning series are expedient, requiring no clothing changes, easily done anywhere, in seconds.

ENERGY AND CHARACTER

The Journal of Bio-energetic Research

Editor:
David Boadella, B.A., M.Ed.,
Abbotsbury, Weymouth, Dorset

24/12/76

Dear Millicent Linden,

I should have written earlier to thank you for your very long and comprehensive reply to my letter. Also to thank you for your trouble in mailing the STRETCH FOR LIFE book to me. I have nearly completed the photocopying, and in any case should have that finished by the end of December. I will be posting the book back to you in the first week of January.

I am enclosing a further 5 dollars to cover your mailing costs, so as to avoid any delay on the sterling cheque being paid into your account. I have obtained from the library both volumes of the Notebooks of Leonardo and am enjoying them immensely. I still think it is incredible that you should have derived so many of your principles from his work; and it enhances my respect for what you are doing. The concept of unification which he had, and is shared by a few others, such as Erich Jantsch, and Reich in his later period, is indeed rare, and few people are ready to comprhenend the simplification of principles underlying the complexity of nature.

I am surprised at Selye's reaction since I think highly of his work especially the part you quote on the one truly original idea he had. There was a chapter dealing with Selye in my book on Reich.

The difficulties and discomfort you have experineced since Dr. Nathan Sack's displacement of your pelvis must have been espcially hard for you to bear in view of the great success you had had before hand in working with levity and pleasurable effortfree body movements.

It will take me some time to digest all the many fascinating insights that you throw out in your letters and papers. I passed your positions, from the earlier booklets, to a few people I see in therapy, and they are already delighted with the benefits they are getting from the position. I myself intend to begin using them regularly in the new year.

I will publish your work on the orgasm (natural and disturbed) as was agreed, in probably the autumn issue of my journal. It may well form the leading article, as you write extremely clearly, and everything you say there I am in total aggeement with.

Occasionaly my work brings me to New York. If ever there is a chance to meet you personally I shall take the opportunity. Meanwhile, once again many thanks for your prompt and very full replies to my letters. As soon as your article is published, I will be sending you full particulars, copies etc.

With very good wishes for your health and well-being in the new year,

David Boadella

Best wishes to Thom.

(41 a)

ENERGY AND CHARACTER
The Journal of Bio-energetic Research

Editor:
David Boadella, B.A., M.Ed.,
Abbotsbury, Weymouth, Dorset

12/1/77

~~Dear Mitch~~

Dear Millicent Linden,

I am touched by your letter. The reason I took out the Leonardo volumes is: I do not do things by halves. Since your work is clearly of importance, being more sensitive & pleasure-oriented & organic, than normal yoga, I naturally wished to look at your antecedents. Also I was impressed that you developed such an integrating view of man & the world; & this led me naturally to the Notebooks. I knew of their existence before, but had not realised the relevance of this work on gravity to my own work with

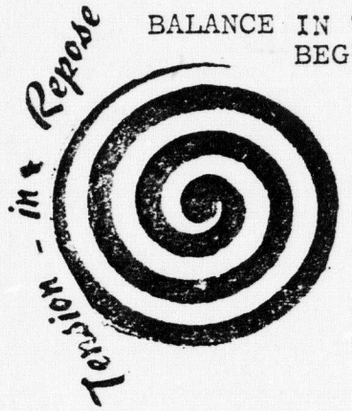
(41, 1-

body posture. Your paper on orgasm & breathing is masterly because it blends what you learned from Leonardo & Newton with the Reichian insight on orgastic potency & self regulation. My only regret is that you did not also acknowledge Reich by name.

I wish I could publicise your work ~~before~~ sooner, but the orgasm paper will be the lead article, hopefully in Sept. It may have to appear in two parts in view of its length, but that is no problem.

How do animal sounds (duck etc) relate to your general theory of concave arch, gravity | levity etc. Also I didn't discover the Einstein reference on cosmic lasiness. Where can I read about this.

Good wishes David Boadella



BALANCE IN THE UNIVERSE
BEGINS WITH THE
SPIRAL

The SPIRAL in all
celestial & earthly
bodies balances the
tensions of motion
and rest together

300 EAST 74TH STREET - NEW YORK, N. Y. 10021
(212) 288-9453 MILLICENT LINDEN, DIRECTOR

PRESSURE IS IN ALL THINGS AT ALL TIMES: GOOD & BAD PRESSURE

BAD pressure is uneven pressure-the unevenness of imbalance which disintegrates.
GOOD pressure is even pressure found in balance which integrates

Bad design means unequal pressure and bad balance; good design means equal pressure and great, keen balance. Great balance is great harmony & great love.

TENSION-in-REPOSE begins with the fundamental design of harmony in the universe: the SPIRAL. From the fundamental design of the spiral, a series comprise a variety of patterns of natural stretching movements which equalize muscle pressure. Equalized muscle pressure removes all strain, allows motion and rest to work together in complete harmony and dynamic efficiency. Body functions move freely and to capacity to enhance breathing, circulation, assimilation of food & drink & all physical actions; blood pressure normalizes.

Your survival depends first and foremost on muscle pressure; the efficiency of all body functions depends upon the efficiency of muscle pressure. With the dynamic efficiency of equalized muscle pressure, food, for example, is processed more completely - cells work better and leave no waste behind to disfigure your body, and they make the most of what is assimilated. The same stepped up efficiency applies to other body functions and processes:

your respiration is enhanced - involuntarily, as respiration is and should remain; sleep is sweet like an infant's; chronic aches, like back problems, ease away; unwanted habits of addictions are displaced by the new inner serenity, like the calm in the center of every storm; weight is re-distributed to give you slender fullness in symmetrical proportions; the greater balance relaxes all tensions; appetite is automatically regulated; memory improves; stress of boredom is relieved; colds are resisted; good health becomes healthier; jet fatigue is refreshed instantly; easing muscle strain protects the heart; lost height is regained; all lovemaking takes on new, deeper dimensions; physical stamina is increased for work and play; and not least of all, you resist gravity on a cumulative basis.

Nature means for you to resist gravity, to feel the luxury of buoyancy. Your body weight is your body mass plus the pull of gravity. You can only resist and pull away from the downward tug of gravity through the natural curve of the concave arch - which you see in the SPIRAL. The smooth, full, continuous line of the concave curve returns you to nature's warm, inviting fold familiar to all babies and animals. Your disposition radiates with the glow

All those beautiful, luxurious, sensuous, highly desired experiences are GUARANTEED - not by any manufacturer or any member of the human species, but by nature itself, because nature does not deceive and is always consistent.

The TENSION-in-REPOSE HOME SERIES COURSE contains the fundamental patterns - 3 large charts providing private-like instructions plus a descriptive booklet. Send $4.95 to the above address for your copy: join the world of the universe!

TENSION-in-REPOSE

Your Body's Own Way to Welcome & Resolve Tensions

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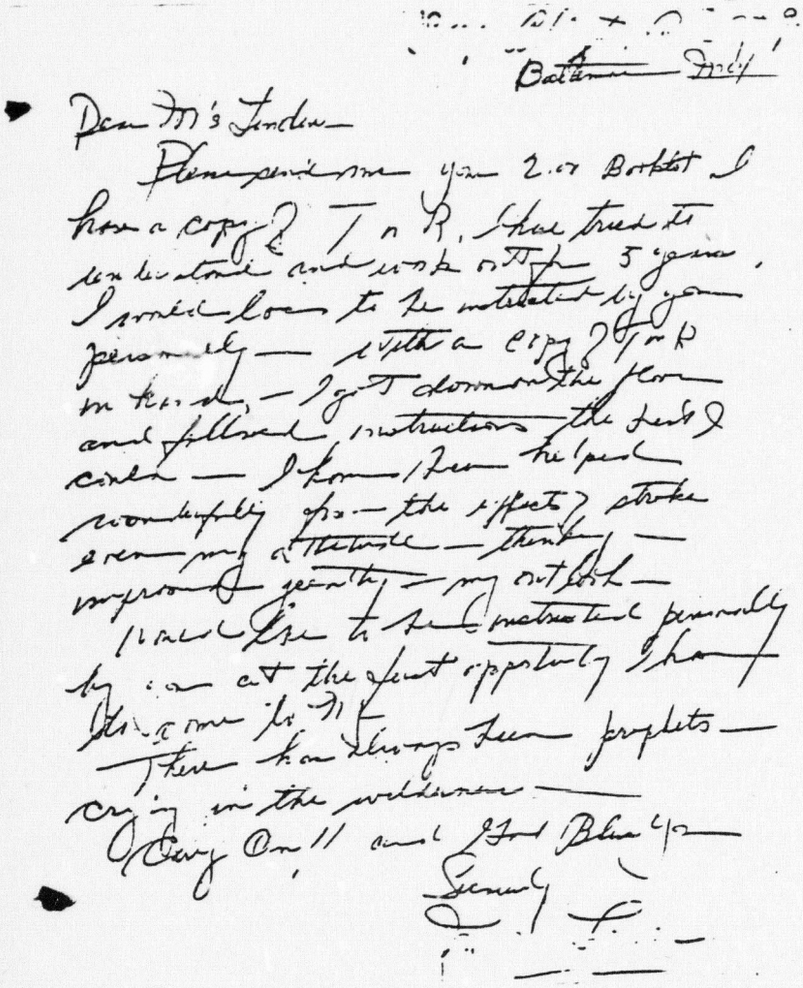
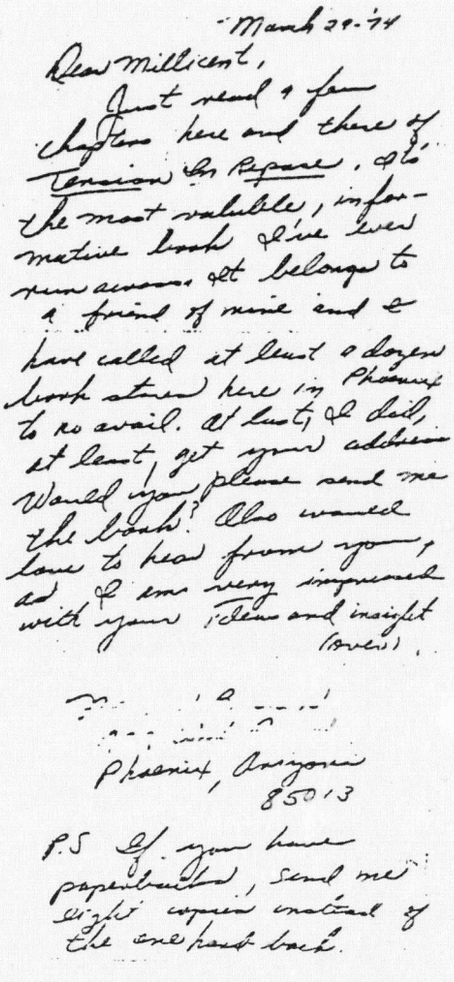
COURSE: $4.95





"I have a copy of T-in-R...and work on it for 5 years. ...I have been helped wonderfully from the effects of stroke even my attitude - thinking - improved greatly - my outlook. ...There have always been prophets - cry in the wilderness - ..... Cry on!!

"Just read a few chapters here and there of Tension in Repose. It's the most valuable, informative book I've ever run across.....I am very impressed with your ideas & insight. ..... send me eight copies.....

HERE IS WHAT DOCTORS SAY

About This Revolutionary System Of "Non-Exercise":

"I fully appreciate the importance of all that you have written, and will pass on to my patients what you have to say."—*M. Oliver, M.C.S.P., chartered physiotherapist, Capetown, South Africa.*

"I publish *the Asthmatic Patient*, and would like permission to publish your movements used in the New York Hospital... I personally have done almost all the movements and find them exactly as you have described. Please list me as one of your supporters."—*Ethan Allan Browne, Boston, Mass.*

From a pamphlet distributed by the Anti-Smoking Clinic, New York Hospital, Cornell Medical Center:

"Contained within are specifically designed stretches to help the smoker who has stopped smoking, or who has cut down cigarette consumption....

Contrary to familiar exercises, these movements are done with gentleness. This gentleness and tender care enables the performer to ease into each movement. This naturally creates a minimum of exertion with a maximum return for the effort.

The movements are easy and simple. Each stretch is done but once at each performance.

The purpose of these exercises is to relax the body without lethargy, to trim the waistline and keep it trim, to tone up the abdominal muscles, to stand straighter without further effort, to feel more buoyant, and to keep the body in readiness for more active work or sports."

HERE'S WHAT PATIENTS SAY:

"I have a bad case of artery hardening, so I tried the stretch you recommended. It has done more for me than any pills I have taken. I do the stretch at night, and I can feel the blood circulating in my legs."—*Ruth Sterns, Sacramento, Cal.*

"How I have improved doing your stretches. Before I started the stretches, I had quite a lot of arthritic pain in my back and arms. Now I have no pain, but a sense of well-being and aliveness in my body."—*Mrs. T. Martin, New York.*

"There is really something great in these stretches, simple and easy as they appear at first. It is unfortunate how many people believe in punishing themselves by hard exercising. I have tried it, so I know. I don't get tired at all now."

—*Hilkka Renne, Wash., D.C.*

FROM TRAINED ATHLETES AND DANCERS:

(If these stretches can slim them down, think what they can do for you!)

"My legs are slimming and reshaping. I feel less fatigue during the practice sessions."

—*A.V., New York ballerina.*

"My waistline is trimmer, but more connected, though I have lost no weight."

—*L.D., Montreal ballerina.*

"I feel as though I'd been through a whole day's workout — except that I'm not tired at all." — *A physical-training instructor at a New York City police academy.*

HERE'S WHAT THE PRESS SAYS:

From Harper's Bazaar: "Frees you like a bird from the prison of your tensions, and provides liberating new beauty for the body... How can anything so relaxing and pleasant work such wonders? But lo, it does! These natural, deep-breathing, tension dissipating movements *do* almost magically renew the body's energy, create inner calm, and induce sound sleep... What's more, they never tax the heart; always tighten and free the muscles."

From the Washington, D.C. STAR: "Forget about that diet... Stop torturing yourself with kicks and bumps and bends. Millicent Linden describes how stretching is superior to exercise in achieving buoyancy and bounce."

HERE'S WHAT DRUG ADDICTS SAY:

(If these simple stretches can relax them so completely, just think what they can do for you!)

"The way I was feeling, I felt that nothing in the world but a shot of dope could make my body and mind feel comfortable.

But after doing several of these stretches, the most remarkable things began to happen. The aches and pains suddenly left my body, and I felt a strange feeling of elation surge through me. That night I can honestly say that I had a full night's sleep in a long time."—*(A.R., New York City).*

"What a relief I felt to release, to suddenly relax —a sense of freedom I cannot explain. I had needed tranquilizers to sleep, before I came to know this heavenly, inner tranquility that contributes toward peace of mind.

I now sleep without the aid of medicine."

—*W.D. New York City*

AFFIDAVIT OF SERVICE BY MAIL

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK-------)

Millicent Linden, being duly sworn, deposes and says that she is over 18 years of age and resides at 500 East 74th Street, New York, New York 10021

On **April 13, 1977**, 1977, deponent served the within **Second, Corrected copy & Exhibits of BRIEF ON APPEAL** upon

EVANS, ORR, PACELLI, NORTON & LAFFAN, P.C.
Attorney for Defendant
P.O. Address

15 Park Row
New York, New York 10038

by depositing true copies of same enclosed in postpaid properly addressed wrappers, in a post office offical depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Millicent Linden

SWORN TO BEFORE ME THIS
13 day of April, 1977

Walter J. Hassett

WALTER J. HASSETT
NOTARY PUBLIC, State of New York
No. [illegible]
Qualified in [illegible] County
Commission Expires March 30, 1979

AFFIDAVIT OF SERVICE BY MAIL

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Millicent Linden, being duly sworn, deposes and says that deponent is over 18 years of age and resides at 500 East 74th Street, New York, New York 10021.

On **April 5, 1977**, 1977, deponent served the within **NOTICE OF APPEAL & AFFIDAVIT-BRIEF ON APPEAL** upon:

EVANS, ORR, PACELLI, NORTON & LAFFAN, PC
Attorney for Defendant-Respondent
P.O. Address
15 Park Row
New York, New York 10038

by depositing **true** copies of same enclosed in postpaid, properly addressed **wrappers**, in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Millicent Linden

Sworn to before me this
5th day of April, 1977

Vincent Amato
Notary Public

VINCENT AMATO
NOTARY PUBLIC, State of New York
No. 24-0057950
Qualified in Kings County
Commission Expires March 30, 1979

VINCENT AMATO
NOTARY PUBLIC, State of New York
No. 24-0057950
Qualified in Kings County
Commission Expires March 30, 1979

76 Civ. 4403

Judge Kevin Duffy

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MILLICENT LINDEN,

Plaintiff-Appellant.

- v -

DAVID FOX and SAMUEL GRAFF,

Defendant-Respondents.

Millicent Linden
Plaintiff, Pro Se
500 East 74th Street
New York, New York 10021
BU.8-9453